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REPUBLIC OF THE PHILIPPINES
THE CONSTITUTIONAL COMMISSION OF 1986

Record of the Constitutional Commission

PROCEEDINGS AND DEBATES

VOLUME FOUR

Prepared by the Editorial/Publication Unit
under the supervision of
Hon. FLERIDA RUTH P. ROMERO
Secretary-General

CECILIA MUÑOZ PALMA
President

AMBROSIO B. PADILLA
Vice-President

↑ *Every plenary session of the Constitutional Commission opens with the singing of the National Anthem followed by a Prayer led by a Member.* ↓

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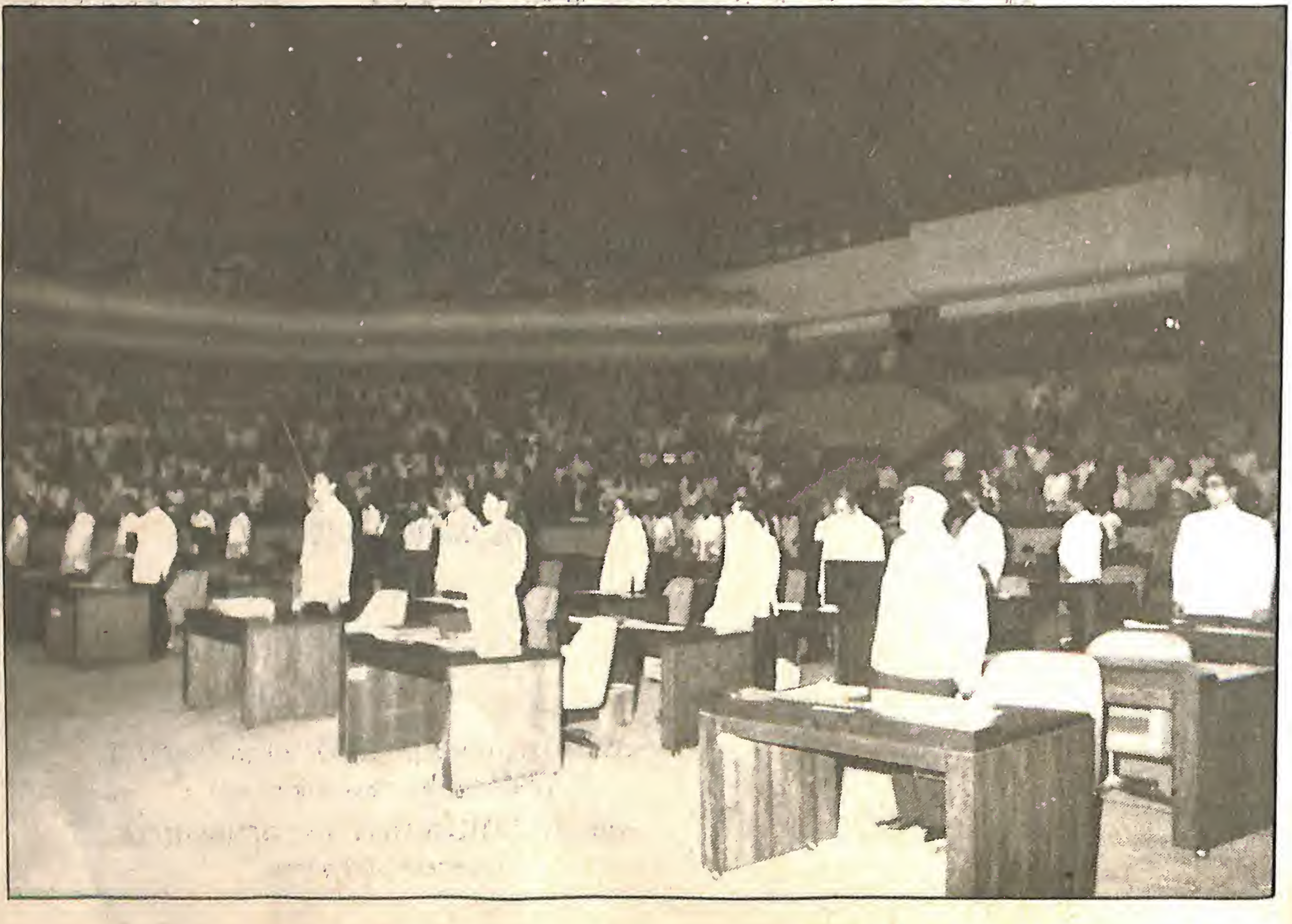

REPUBLIC OF THE PHILIPPINES

THE CONSTITUTIONAL COMMISSION OF 1986

QUEZON CITY, METRO MANILA

Record of the Constitutional Commission

PROCEEDINGS AND DEBATES

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HON. AMBROSIO B. PADILLA
Vice-President

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*Resigned as of September 1, 1986

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REPUBLIC OF THE PHILIPPINES
THE CONSTITUTIONAL COMMISSION OF 1986
QUEZON CITY, METRO MANILA

Record of the Constitutional Commission

PROCEEDINGS AND DEBATES

R.C.C. NO. 68
Thursday, August 28, 1986

OPENING OF SESSION

At 10:12 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS. Most merciful God, in whom we have our being, we thank Thee for the beauty of Thy presence in our midst. As we face the challenges of this day, take away the fear and suspicions in our hearts, the self-righteousness in our souls, the pride in our intellect. Make us sensitive to the leading of Thy Spirit, that we may be humble in times of victory, and honorable in times of defeat.

May our work today be an investment unto eternity, and may it contribute to the rebuilding of this nation we all love so dearly.

Grant us the grace to rise beyond the tumults of our age, and always to put our trust in Thee.

In Jesus' name we pray. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present*	Nieva	Present
Aquino	Present*	Nolledo	Present
Azcuna	Present*	Ople	Absent
Bacani	Present*	Padilla	Present
Bengzon	Present*	Quesada	Present*
Bennagen	Present*	Rama	Present
Bernas	Present*	Regalado	Present
Rosario Braid	Present	Reyes de los	Present
Brocka	Absent	Rigos	Present
Calderon	Present	Rodrigo	Present
Castro de	Present	Romulo	Present
Colayco	Present	Rosales	Absent
Concepcion	Present	Sarmiento	Present
Davide	Present	Suarez	Present*
Foz	Present	Sumulong	Present
Garcia	Present*	Tadeo	Present*
Gascon	Present	Tan	Present
Guingona	Present	Tingson	Present*
Jamir	Present	Treñas	Absent
Laurel	Present*	Uka	Present
Lerum	Present*	Villacorta	Present*
Maambong	Present*	Villegas	Present
Monsod	Present		

The President is present.

The roll call shows 26 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

---

*Appeared after the roll call

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. Just a minor correction. On the last paragraph of page 20, it states: "Commenting on the statements of Mr. Bernas, Mr. de los Reyes stated that rebellion is not a complex crime." The phrase should read: "rebellion CANNOT BE COMPLEXED WITH ANOTHER CRIME."

THE PRESIDENT. Will Commissioner de los Reyes please repeat that.

MR. DE LOS REYES. The sentence should read: "Commenting on the statements of Mr. Bernas, Mr. de los Reyes stated that rebellion CANNOT BE COMPLEXED WITH ANOTHER CRIME."

Thank you, Madam President.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; let the proper correction be made.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. May I also ask for a correction on page 21, the second paragraph. It says: "Mr. Regalado expressed support for Mr. de los Reyes' observations stating that in the cases of *People vs. Geronimo* and *People vs. Taruc,* it was held that any other offense committed by the rebels NOT in furtherance of the rebellion." The word "NOT" has been omitted.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; let the proper correction be made.

MR. REGALADO. Thank you, Madam President.

APPROVAL OF JOURNAL

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the Journal of yesterday's session is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from the Cooperative Union of the Philippines, Inc., Room 400-G N. de la Merced (Delta) Bldg., West Avenue, Quezon City, signed by Mr. Vicente Arroyo Martires, Legal and Management Counsel, ASEAN Cooperative Organization, submitting a copy of the Resolution of the First National Cooperative Congress and the communication to President Muñoz Palma, requesting the Constitutional Commission to consider the inclusion in the Constitution of a state policy on cooperatives.

(Communication No. 635 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Mr. Elias Q. Tan of 309-G Tres de Abril, Victor Village, Cebu City, urging inclusion in the Constitution of a provision that shall promote the establishment of open economy or special economic zones in selected areas, prototypes of which may be set up by the private sector at no cost or liability to the State, and towards this end, the State shall ensure their full development as self-reliant communities enjoying a high degree of autonomy.

(Communication No. 636 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Jorge de Ramos, President, Student Council of Asian Theological Seminary, 54 Scout Madriñan, Quezon City, suggesting a provision on "the inviolability of the separation of the Church and State."

(Communication No. 637 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the teachers and personnel (62 signatories) of Claret School of Zamboanga, urging the Constitutional Commission to consider the following: (1) the Filipino child's right to education and corresponding duty of the State to provide for the same; (2) reorientation of the Philippine educational system; (3) enlightenment – the ultimate role of education; and (4) no distinction or discrimination between privately owned or public schools.

(Communication No. 638 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Ms. Rosalinda V. Tirona, Ambassador to India, transmitting copies of UN documents relating to the "Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Relief," which might be useful in the work of the Constitutional Commission.

(Communication No. 639 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Ms. Agustina B. Carrasco, President, Senior Citizens of the Philippines, Vinzons, Camarines Norte, suggesting to include in the Constitution a provision for the upliftment of the senior citizens of the Philippines.

(Communication No. 640 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication from Mr. Julio P. Macuja, Secretary-General, Lakas ng Kabataang Pilipino (LKP), and 16 others, proposing an Article on Education, Science, Technology, Sports, Arts and Culture for consideration by the Constitutional Commission.

(Communication No. 641 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Katipunang Manggagawang Pilipino TUCP Training Center, TUCP-PGEA Compound, Diliman, Quezon City, signed by former MP Jeremias U. Montemayor, containing negative reactions elicited among peasant and labor groups to the draft article on social justice and hope that the defects perceived therein may be corrected.

(Communication No. 642 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication from 1,748 concerned citizens of Negros Occidental, declaring and manifesting their adherence to democracy and to the tenets and principles of the democratic form of government, and repudiating communism in all its forms and implications, and at the same time favoring the retention of the U.S. Military and Naval Bases in the Philippines for a reasonable period.

(Communication No. 643 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Ms. Ester B. Sy-Quimsiam, Deputy Executive Director and Officer-in-Charge, Commission on Population, MSSD, Welfareville Compound, Mandaluyong, Metro Manila, and 2,260 other signatories coming mostly from the NCR and parts of the Ilocos region, seeking amendment to Section 8 of the proposed Article on General Provisions.

(Communication No. 644 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Central Visayas Ecumenical Fellowship, 49 Mabini St., Cebu City, signed by the Chairperson of its Executive Committee, Rev. Maxwell Codillo, UCCP, and 868 other signatories, expressing opposition to Proposed Resolution No. 289, entitled: "Resolution providing in the new Constitution the teaching of religion in public elementary and secondary schools under certain conditions."

(Communication No. 645 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 750 members of the Philippine General Council of the Assemblies of God, P.O. Box 49, Valenzuela, Metro Manila, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 646 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Mindanao Press and Radio Association, Cagayan de Oro City, signed by Mr. Gabino R. Labial, Jr., submitting a resolution adopted by the association proposing amendments to Section 4, Article II and Section 10, Article XV of the 1973 Constitution for inclusion in the proposed Constitution.

(Communication No. 647 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from former MP Renato L. Cayetano, requesting approval or rejection of the proposed redistricting of the parliamentary district of Pateros, Taguig, and Muntinlupa into Pateros and Taguig as one district, and Muntinlupa and Las Piñas as another.

(Communication No. 648 – Constitutional Commission of 1986)

To the Committee on the Legislative.

Communication from the Sangguniang Bayan of Mabini, Batangas, signed by the Municipal Mayor, Basilio C. Calangi, requesting the Constitutional Commission, thru the Honorable Cecilia Muñoz Palma, to reconsider its decision on the scrapping of the death penalty because it might have an adverse effect on the ratification of the proposed Constitution.

(Communication No. 649 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Oscar N. Rivera of 131 F. Zobel Street, San Miguel Village, Makati, Metro Manila, expressing agreement to the proposal of Commissioner Joaquin Bernas that a piecemeal submission to the people of the proposed charter be adopted to give the people wider choices in deciding on major controversial issues.

(Communication No. 650 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from 76 members of the Faculty of the University of the Philippines and members of the academic community, seeking to include in the Constitution a provision obliging the State to explicitly protect the human life of the unborn from the moment of conception.

(Communication No. 651 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 539
(Article on the Constitutional Commissions-Commission on Human Rights)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we continue the consideration of Committee Report No. 37 on Proposed Resolution No. 539.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable members of the committee, Commissioners Foz, Monsod, Sarmiento, Garcia and the others, are requested to occupy the front table.

MR. RAMA. Madam President, I ask that Commissioner Nolledo be recognized.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

I would like to give a short background on what happened in yesterday's session. I presented an amendment to the report of the Committee on Constitutional Commissions authorizing the Commission on Human Rights to set forth the cases that shall fall within its jurisdiction. The amendment was objected to by Commissioners Bernas and Monsod. Commissioner Monsod suggested that it should be Congress that should be authorized to fix the cases which shall fall within the exclusive jurisdiction of the Commission on Human Rights and that we should provide in the Transitory Provisions that, until Congress shall provide otherwise, the presently constituted Commission on Human Rights shall continue to function. And so, I presented this amendment to the committee yesterday afternoon – an amendment that should appear as Section 3 of the committee report and it reads as follows: "CONGRESS SHALL PROVIDE FOR THE CASES OF VIOLATIONS OF HUMAN RIGHTS THAT SHALL FALL WITHIN THE EXCLUSIVE JURISDICTION OF THE COMMISSION ON HUMAN RIGHTS."

We will have a provision in the Transitory Provisions of the 1986 Constitution authorizing the continuity of the discharge of functions of the presently constituted Commission on Human Rights. In giving some guidelines to Congress, I stated that the following shall be the points of reference that shall be taken into account by Congress in fixing the jurisdiction of the Commission on Human Rights: the pertinent provisions of the Bill of Rights of the Constitution; the pertinent provisions of the Universal Declaration of Human Rights; the provisions of the International Covenant on Civil and Political Rights; and the answers of Commissioners Garcia and Sarmiento to the interpellations of Commissioner Bengzon with respect to cases that should fall within the jurisdiction of the Commission on Human Rights.

And so, I would like the committee to react to this proposed amendment that I am now presenting, as suggested by Commissioner Monsod and accepted by my coauthors, Commissioners Bengzon and Tingson.

MR. SARMIENTO. Would the Gentleman kindly repeat the amendments?

MR. NOLLEDO. The amendment that should appear in Section 3 reads as follows: "CONGRESS SHALL PROVIDE FOR THE CASES OF VIOLATIONS OF

HUMAN RIGHTS THAT SHALL FALL WITHIN THE EXCLUSIVE JURISDICTION OF THE COMMISSION ON HUMAN RIGHTS."

We agreed also that there will be a provision on the Transitory Provisions authorizing the presently constituted Commission on Human Rights to continue exercising its powers and functions until otherwise provided by the Congress.

THE PRESIDENT. Please restate the amendment.

MR. NOLLEDO. Yes, Madam President. The amendment will read: "SEC. 3. CONGRESS SHALL PROVIDE FOR THE CASES OF VIOLATIONS OF HUMAN RIGHTS THAT SHALL FALL WITHIN THE EXCLUSIVE JURISDICTION OF THE COMMISSION ON HUMAN RIGHTS."

This is coauthored by Commissioners Bengzon and Tingson.

MR. SARMIENTO. Madam President, the amendment is accepted.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We are accepting it with the manifestation that there will be a complementary provision in the Transitory Provisions.

MR. NOLLEDO. Thank you.

MR. PADILLA. Madam President.

THE PRESIDENT. Are there any comments?

Commissioner Padilla is recognized.

MR. PADILLA. Will the distinguished proponent yield to a few questions.

MR. NOLLEDO. Gladly, Madam President.

MR. PADILLA. I hear that the proposed Section 3 mentions violations of human rights within the exclusive jurisdiction of the commission. Does the Gentleman realize that the Bill of Rights, which guarantees human rights and the protection of which is the concern of the entire nation, should be the concern of the entire governmental machinery including the law enforcement agencies and the effective administration of justice to arrest, prosecute and punish the guilty?

MR. NOLLEDO. I agree with the Vice-President but the words "EXCLUSIVE JURISDICTION" are used in the light of the functions of the Commission on Human Rights which are investigative and recommendatory. We do not do away with the enforcement of civil and political rights by other agencies of the government in appropriate cases.

MR. PADILLA. No, we are not talking of civil, political or what they sometimes call economic and cultural rights; they are human rights. If this commission is only investigative and recommendatory, it must have as effective arms the law enforcement agencies, including the prosecution arm of the government and the prosecution, trial and judgment to be rendered by the competent courts. Why should we mention "EXCLUSIVE JURISDICTION" as if the other branches of government, particularly the judiciary and the executive, and not to exclude the legislative, should have not only jurisdiction but must implement the protection of human rights and, therefore, prevent and punish those violators of human rights?

MR. NOLLEDO. In the light of the Vice-President's observations and to avoid some confusion, I will recommend to the committee that we delete the word "EXCLUSIVE" because when we talk of jurisdiction here, we are talking of cases that can be investigated by the Commission on Human Rights and in relation to which appropriate recommendations may be given by the Commission on Human Rights.

MR. PADILLA. There is no question about the commission having the authority to investigate and recommend but the more important thing is for these violators of human rights to be arrested, prosecuted, tried and convicted, and this cannot be done by the commission. It has to rely on the other branches of government particularly the law enforcement agencies – the police, the NBI and other agencies – and an effective administration of justice to be administered by the trial courts up to the Supreme Court.

MR. NOLLEDO. Yes, I agree with the Gentleman. That is why I am in favor of deleting the word "EXCLUSIVE."

MR. PADILLA. The Gentleman's amendment starts with "CONGRESS SHALL PROVIDE FOR THE CASES." Why should Congress still provide as if we are imposing upon Congress the duty to specify the various violations? We all know what human rights stand for; these are provided and guaranteed by the Bill of Rights. We do not have to tell Congress, "provide or specify the various violations."

MR. NOLLEDO. The Vice-President will notice that in previous sessions of our Commission, Commissioner Bengzon asked questions on what the specific cases are which shall constitute the bases for investigation by the Commission on Human Rights. And he asked several questions that will indicate that probably all cases of violations in the Revised Penal Code, even maltreatment of children, et cetera, may fall under the jurisdiction of the Commission on Human Rights. It is on the basis of these interpellations by Commissioner Bengzon that the committee felt there was a need to specify the cases that can be investigated by the Commission on Human Rights.

MR. PADILLA. The danger in specifying or enumerating is that it might mean the exclusion of others not specified or enumerated under that basic principle of *inclusio unius, exclusio alterius.* I think it is not necessary and, in fact, it is even dangerous to limit the functions of the commission.

MR. NOLLEDO. We do not preclude Congress from stating that the violations of human rights that may fall under the jurisdiction of the commission shall include but are not limited to the following, because if one will really study the provisions of the Universal Declaration of Human Rights in the Bill of Rights, practically all conceivable violations may fall under the jurisdiction of the Commission on Human Rights.

MR. PADILLA. That is precisely my point. The Bill of Rights mentions many human rights, including the rights of a person to liberty, property, due process, equal protection, et cetera. Why should we require Congress to specify the cases? Those are the two problems.

MR. NOLLEDO. Commissioner Monsod would like to explain further, Madam President.

MR. MONSOD. Madam President, things might be clarified if we put this in the context of the deliberations yesterday. During the interpellations yesterday, it was the intent of the committee that the commission would have very modest objectives because there were certain concrete and immediate matters that needed to be addressed. While a constitutional commission that we see has a horizon wider than the present functions of the Presidential Committee on Human Rights, the objectives now of the commission would be modest.

So, perhaps, we can try to place this in the context of this provision, if it is all right with the Commissioner. We wanted a catch-all provision so that over time, the commission's functions could be enlarged, if indeed we come to the point where there is less problem on the political and civil rights that are now the subject of the Presidential Committee on Human Rights. That was the purpose of suggesting a catch-all phrase. But the catch-all phrase, as I understand it from Commissioner Padilla, might have two problems. One is the problem of the word "EXCLUSIVE" and the other is that Congress might unnecessarily expand the scope of the commission beyond its intended modest objectives at the present. So, we were wondering if we could put the phrase "IN ACCORDANCE WITH THE PRIORITY RECOMMENDATIONS OF THE COMMISSION" which would tie in with the proposed Transitory Provisions.

With respect to the word "EXCLUSIVE," the committee that has accepted the amendment is not inflexible as to its use because Commissioner Padilla's points are also well taken.

MR. NOLLEDO. Madam President, I understand Commissioner de los Reyes is intending to amend the amendment.

MR. DE LOS REYES. Madam President, may I seek recognition?

MR. MONSOD. Is it acceptable if we put "IN ACCORDANCE WITH THE PRIORITY RECOMMENDATIONS OF THE COMMISSION"?

MR. NOLLEDO. Yes, it is acceptable to me, Madam President.

MR. MONSOD. Thank you.

MR. NOLLEDO. And then we delete the word "EXCLUSIVE."

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. And may I offer an amendment of Commissioner Nolledo that instead of using the word "JURISDICTION" which might be confused with the jurisdiction of the regional trial courts, the municipal courts, we put "AUTHORITY". I think that will be a more appropriate term in defining the scope of the work of the commission. Is that acceptable to Commissioner Nolledo?

MR. NOLLEDO. I would like to consult the committee because if we accept the amendment of Commissioner de los Reyes, more or less the amendment will read as follows: "CONGRESS SHALL PROVIDE FOR THE CASES OF VIOLATIONS OF HUMAN RIGHTS THAT SHALL FALL WITHIN THE AUTHORITY OF THE COMMISSION ON HUMAN RIGHTS TO INVESTIGATE." Will the committee be amenable?

MR. SARMIENTO. We will take into account the priorities recommended by the Human Rights Commission.

MR. DE LOS REYES. So, it will be "AUTHORITY" instead of "JURISDICTION."

THE PRESIDENT. Is that acceptable?

MR. NOLLEDO. I will accept the amendment, Madam President.

MR. SARMIENTO. The amendment is accepted, Madam President.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner Davide, I think, was ahead. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, may I be allowed to introduce an amendment to carry the intent of the committee? My proposal is that the new section shall read: "UPON RECOMMENDATION OF THE COMMISSION, CONGRESS SHALL DEFINE THE CASES OF VIOLATIONS OF HUMAN RIGHTS WHICH SHALL FALL WITHIN THE AUTHORITY OF THE COMMISSION."

THE PRESIDENT. How did it begin? Will Commissioner Davide please state it again?

MR. DAVIDE. It will read: "UPON RECOMMENDATION OF THE COMMISSION, CONGRESS SHALL DEFINE THE CASES OF VIOLATIONS OF HUMAN RIGHTS WHICH SHALL FALL WITHIN THE AUTHORITY OF THE COMMISSION."

So, we leave it to the commission to determine the cases over which it may have expanded jurisdiction or authority, but it should be mandated by Congress.

MR. MONSOD. May we just ask a question on this. We might have a "chicken and egg" situation here, because theoretically, the commission will not come into existence until the law has been formulated.

MR. DAVIDE. No, Madam President, because we will provide that the existing Presidential Committee on Human Rights shall continue its functions and exercise the powers conferred to the commission created in this Constitution.

SUSPENSION OF SESSION

MR. RAMA. Madam President, the phrase "mandated by Congress" is a little controversial. May I ask for a suspension of the session for us to confer.

THE PRESIDENT. The session is suspended for a few minutes. I request the Commissioners to please confer on the matter.

It was 10:46 a.m.

RESUMPTION OF SESSION

At 11:35 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, during the suspension of the session, Commissioners Nolledo and Davide made a reformulation of the proposed amendment, so may we ask Commissioner Davide to share that reformulated amendment with us.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

This is the modified proposal which is jointly authored by the following: Commissioner Nolledo, the principal author, Commissioner de los Reyes, the main proponent, Commissioners Regalado, Bengzon, Monsod, Garcia, Sarmiento, and this Member. The new Section 3 will read as follows: "CONGRESS MAY PROVIDE FOR OTHER CASES OF VIOLATIONS OF HUMAN RIGHTS THAT SHALL FALL WITHIN THE AUTHORITY OF THE COMMISSION, TAKING INTO ACCOUNT ITS RECOMMENDATION."

MR. NOLLEDO. Madam President, that is an amendment to my amendment. I would like to say that I am gladly accepting the amendment with the understanding that the primary jurisdiction of the Commission on Human Rights is found in Section 2(1) of the committee report, and with the further understanding that we are going to provide in the Transitory Provisions that the presently constituted Commission on Human Rights shall continue to function until otherwise provided by the Congress.

MR. DAVIDE. Not only that, Madam President, the said commission, to be proposed later, will also exercise the functions conferred on the commission created under this Constitution.

THE PRESIDENT. Thank you.

MR. DAVIDE. These understandings bear our full accord.

THE PRESIDENT. What does the committee say so that we can submit it to a vote?

MR. SARMIENTO. Accepted, Madam President.

VOTING

THE PRESIDENT. It has been accepted. This has been read by Commissioner Davide.

As many as are in favor of this particular new section, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Few Members raised their hand.)*

The results show 24 votes in favor, none against and 2 abstentions; the new section, as amended, is approved.

MR. SARMIENTO. Madam President, from the committee, we wish to introduce an amendment to the amendment proposed by Commissioner Davide and approved by the body yesterday. Yesterday we adopted this amendment which reads: "Adopt its own rules of procedure, cite for contempt for violations thereof in accordance with the Rules of Court in the Philippines."

We wish to introduce the words "PRIORITIES AND" between the words "own" and "rules." So that the amendment will read: "Adopt its own PRIORITIES AND rules of procedure, cite for contempt for violations thereof in accordance with the Rules of Court in the Philippines."

THE PRESIDENT. Did the committee mark it as subparagraph 2? Will the Gentleman read it?

MR. SARMIENTO. Madam President, it will read: "Adopt its own PRIORITIES AND rules of procedure, cite for contempt for violations thereof in accordance with the Rules of Court in the Philippines."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. It will affect the amendment I earlier introduced. May I be allowed to modify to clearly distinguish the two and define the scope of each? I would propose that it should read as follows: "Adopt its PRIORITIES, PROMULGATE ITS OWN rules of procedure."

THE PRESIDENT. Is that accepted?

MR. SARMIENTO. Accepted, Madam President.

MR. DE LOS REYES. Madam President, may I ask for recognition?

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. May I ask some clarificatory questions of the committee?

THE PRESIDENT. Please proceed.

MR. DE LOS REYES. During the discussion yesterday, it was made clear that the authority of this commission shall extend not only to violations of human rights by the military but also by private parties which shall include violations committed by those who are working against the government forces. When we say "priorities," does it mean, for example, that the commission, in exercising its right to prioritize its investigation, can investigate only violations committed by the military disregarding in the meanwhile abuses committed by private parties? As I understood it yesterday, when Commissioner Ople introduced his amendment, the purpose of placing therein investigations of violations committed by those who rebel against the government and the military is to strike a balance between the investigation and reporting of the results of the investigation by this commission. But with the word "priorities," it can defeat that purpose by simply concentrating in its investigation on violations of human rights by the military. So what is the real meaning of "priorities"? Why is there a need for that insertion?

MR. SARMIENTO. As explained yesterday, we stated that the commission shall investigate all forms of human rights violations committed by public officers, civilian and military authorities and private parties, so there will be no exception, Madam President. When we say "priorities," we will leave it to the commission to give priority as to what forms of violation should be first investigated because we expect massive human rights violations. So, considering the volume of work, we leave it to the commission as to what forms of violation should be given priority.

MR. DE LOS REYES. In the first place, I think there is no need to state that in the Constitution. Any commission, I think, has the right to investigate all violations not on the basis of what it thinks should be prioritized but on a first-come, first-served basis because if other people, for example, will complain against violations of human rights by forces outside the military, certainly the commission's duty should be to investigate these things on a first-come, first-served basis and not on what it thinks should receive priority. And for this reason, I respectfully object, with all due respect to the committee, to the amendment being introduced.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. I would also be in favor of explicitly saying that the commission can adopt its own priorities as a recognition of the fact that it can be overwhelmed with complaints and so forth. So it does have to make a choice. But as far as where the provision should be, may I propose an amendment by transposition by putting the subject of priorities in the last paragraph of this section. So that the last paragraph would read: ESTABLISH ITS OWN PRIORITIES and perform such other duties and functions as may be provided by law."

MR. SARMIENTO. No objection to the proposed amendment by transposition.

THE PRESIDENT. So what is to be voted now?

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

I agree with the observations of Commissioner de los Reyes. It is not proper, I believe, that the priorities to be recognized by the commission be placed in the Constitution. In the first place, when one is in that office, he is already making up in his mind the priorities of his job. And it would be quite misplaced if we place in the Constitution what will be in the minds of the people performing their work. Certainly, when one goes to a certain job, he has certain priorities. But it would not be good for the Constitution to state so.

Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Since we have accepted the proposed amendment by transposition, and since we have this objection from Commissioners de los Reyes and de Castro, may we throw the issue to the body?

THE PRESIDENT. Please read the wordings of this amended section or subsection again.

MR. FOZ. This is the last paragraph: "ESTABLISH ITS OWN PRIORITIES and perform such other duties and functions as may be FIXED by law." So the amendment actually consists of the following words: "ESTABLISH ITS OWN PRIORITIES" as the last subsection.

MR. DE CASTRO. Madam President, if there is a voting on this, I move that the voting be only on the wording, "ESTABLISH ITS OWN PRIORITIES" and not to include "perform such other duties and functions."

MR. FOZ. Madam President, I was just reading the whole provision and I said the amendment would actually consist of the following words: "ESTABLISH ITS OWN PRIORITIES."

MR. CONCEPCION. Madam President.

THE PRESIDENT. Commissioner Concepcion desires to be recognized. May we hear from him.

MR. CONCEPCION. Thank you, Madam President.

The reason for the statement of priorities is that the commission would not want to create expectations on the part of the public which cannot be fulfilled immediately. There are a number of violations of human rights like hunger, for instance. The commission knows that whatever it does, it cannot do anything about that. That is a question of economic development, social consciousness and a number of things. Even in the case of violation of human rights, the commission may have to determine which type of violation, regardless of the order in which complaints have been filed, deserve immediate attention. So that is just to explain that it is precisely to avoid creating an expectation and then thereafter disillusionment on the part of the public if every complaint cannot be attended soon enough, considering that this is the first time that a constitutional commission of this type is established for the defense, protection, and promotion of human rights.

I thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT. May we suspend the session for a few minutes.

It was 11:50 a.m.

RESUMPTION OF SESSION

At 12:01 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. SARMIENTO. Madam President, may I ask that Commissioner Regalado, after conferring with Commissioners de Castro, de los Reyes and Davide, be recognized for his amendment.

MR. REGALADO. Thank you, Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. This is also in collaboration with the proposals of Commissioners Natividad and Guingona by way of an amendment to subparagraph 2 to read as follows: "ADOPT ITS OPERATIONAL GUIDELINES, RULES OF PROCEDURE, AND CITE FOR CONTEMPT FOR VIOLATIONS THEREOF IN ACCORDANCE WITH THE RULES OF COURT IN THE PHILIPPINES."

May I explain, Madam President?

THE PRESIDENT. Please proceed.

MR. REGALADO. The use of the phrase "OPERATIONAL GUIDELINES" is understood to underscore the fact that in its operations, the commission shall not resort to any discriminatory programs but should have the enforcement of its policies, as well as operations, done on the basis of equality, parity and without any intent to unduly put at a disadvantage a particular sector, but also in consideration of the volume of work that may be encountered by the commission.

VOTING

THE PRESIDENT. As many as are in favor of this particular section – because this was already approved yesterday – as amended, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Few Members raised their hand.)*

The results show 30 votes in favor, none against and 2 abstentions; the section, as amended, is approved.

Are there any other pending amendments?

MR. RAMA. There is one more, Madam President. May I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, my amendment is on Section 1, but may I first seek the recognition of Commissioner Bengzon.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, this will be the second paragraph because the first paragraph states that there shall be an independent Commission on Human Rights.

The second sentence shall read as follows: "THE COMMISSION SHALL BE COMPOSED OF FIVE INCLUDING THE CHAIRMAN ALL OF WHOM SHALL BE NATURAL-BORN CITIZENS OF THE PHILIPPINES AND A MAJORITY OF WHOM SHALL BE MEMBERS OF THE BAR. THE TERM AND OTHER QUALIFICATIONS AND DISABILITIES OF THE MEMBERS OF THE COMMISSION SHALL BE PROVIDED BY LAW."

May we know the reaction of the committee?

MR. FOZ. Madam President, after the word "FIVE," may we suggest that we put the word "MEMBERS"?

MR. BENGZON. Yes.

MR. SARMIENTO. Accepted, Madam President.

MR. GUINGONA. Madam President.

THE PRESIDENT. Is there any comment?

MR. GUINGONA. Instead of saying "COMPOSED OF FIVE," we say "COMPOSED OF A CHAIRMAN AND FOUR MEMBERS."

MR. BENGZON. We accept the amendment.

THE PRESIDENT. Shall we submit this particular portion to a vote?

MR. BENGZON. Yes.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

MR. BENGZON. I have another paragraph, Madam President. This could be a separate section or another paragraph depending on what the committee desires and what the Committee on Style would wish: "THE COMMISSION SHALL ENJOY FISCAL AUTONOMY. THE APPROVED ANNUAL APPROPRIATIONS OF THE COMMISSION SHALL BE AUTOMATICALLY AND REGULARLY RELEASED." It will align this Human Rights Commission with other commissions that we have created in the Constitution in order to further insure the independence of the Human Rights Commission.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I introduced that particular amendment yesterday, but there was a proposed modification presented by Commissioner Maambong to delete the first sentence. I am in favor of the modification presented earlier. So, may I propose that the particular amendment should not carry the first sentence, only the second sentence which reads: "THE APPROVED ANNUAL APPROPRIATIONS OF THE COMMISSION SHALL BE AUTOMATICALLY AND REGULARLY RELEASED."

MR. BENGZON. Why do we want to delete the sentence which says, "THE COMMISSION SHALL ENJOY FISCAL AUTONOMY"?

MR. DAVIDE. That would be a surplusage because the autonomy actually intended is the automatic release of these appropriations.

MR. BENGZON. If that is the case, then maybe we should also delete such sentence in the other articles that we have approved. I will just leave it up to the Committee on Style, as long as it is in the record that that is the sense of the Commission, Madam President.

THE PRESIDENT. What does the committee say on this point?

MR. SARMIENTO. Accepted, Madam President. We leave it to the Committee on Style, so long as the intent is there.

MR. BENGZON. In other words, what we are really saying is that if the Committee on Style feels that it would be more elegant and it is a surplusage to include the first sentence, then so be it as long as it is recorded in the Journal that it is the sense of the Commission that the Human Rights Commission will enjoy fiscal autonomy.

MR. GUINGONA. Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. May I respectfully invite the attention of the honorable Commissioners that there are two committees that are tasked with the same work and, therefore, reference can be made not only to the Committee on Style but also to the Sponsorship Committee.

Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Maybe we should just say that the minimum condition that the committee agrees to is: "THE APPROVED ANNUAL APPROPRIATIONS OF THE COMMISSION SHALL BE AUTOMATICALLY AND REGULARLY RELEASED." That is a minimum condition and we just allow the committees to add the first sentence if they wish. But with the second sentence, the sense is already there.

MR. BENGZON. No problem, Madam President.

THE PRESIDENT. This was taken up yesterday.

MR. BENGZON. But it was deferred, I understand, Madam President. So if we approve this now, then it will be firmly included.

THE PRESIDENT. So, will the Commissioner please read it now as it is?

MR. BENGZON. I will read the amendment as accepted. "THE APPROVED ANNUAL APPROPRIATIONS OF THE COMMISSION SHALL BE AUTOMATICALLY AND REGULARLY RELEASED."

THE PRESIDENT. Is there any objection to this proposed amendment which has been accepted by the committee?

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. The wording reminds me of the provisions under the judiciary and the constitutional commissions. Is the intention to elevate the position of this proposed commission which is only investigative and recommendatory to the high dignity of a constitutional commission, as well as the independence of the judiciary, by making a positive statement in the Constitution that its appropriation shall be released automatically and so forth? It seems that we are complicating and also reiterating several provisions that would make our Constitution not only too long but too complicated. I wonder if that is the purpose because even other bodies with semi-judicial functions do not enjoy such kind of constitutional guarantee. It is just an inquiry.

MR. BENGZON. It is not so much the fact that we want to elevate this into a constitutional commission as it is more of an insurance that the independence of the Human Rights Commission, even though it is not considered as a constitutional commission as contemplated and as compared to the Civil Service Commission, the COMELEC and COA, is maintained. And this is as elegant as the other sentences. So, we submit the same to the body.

MR. SARMIENTO. The proposed amendment has been accepted by the committee, but we have this objection from Commissioner Padilla. So, may we throw the issue to the body?

MR. GUINGONA. Madam President, just for clarification. Does the amendment of the honorable Commissioner Bengzon refer only to the release? I was thinking that although I am very, very strongly in favor of this commission and would give it one of the top priorities, there are other top priorities that we may want to address ourselves to. For example, in the Committee on Human Resources, we would like to give top priority to education; therefore, if this does not refer only to an automatic and regular release but would refer to the matter of priorities in the preparation of the budget, then I am afraid that we might already be curtailing too much the discretion on the part of both the legislature and the executive to determine the priorities that should be given at a given time.

MR. BENGZON. Madam President, the sentence means what it says and it is clear.

THE PRESIDENT. Will the Commissioner please read.

MR. BENGZON. It only refers to the release which should be automatic and regular.

THE PRESIDENT. Please state it again so that we will be clarified before we take a vote.

MR. GUINGONA. Thank you, Madam President.

MR. BENGZON. It will read: "THE APPROVED ANNUAL APPROPRIATIONS OF THE COMMISSION SHALL BE AUTOMATICALLY AND REGULARLY RELEASED."

VOTING

THE PRESIDENT. As many as are in favor of this particular section, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 26 votes in favor, 4 against and 2 abstentions; the amendment is approved.

MR. RAMA. Madam President, there is one last amendment from Commissioner Davide. I ask that he be recognized.

MR. DAVIDE. Thank you, Madam President.

This will be the last sentence to Section 1. It will read: "UNTIL OTHERWISE PROVIDED BY LAW, THE EXISTING PRESIDENTIAL COMMITTEE ON HUMAN RIGHTS SHALL CONTINUE TO PERFORM ITS FUNCTIONS AND SHALL EXERCISE THE POWERS CONFERRED TO THE COMMISSION HEREIN CREATED."

MR. MONSOD. May we ask a question of the proponent, Madam President?

THE PRESIDENT. Please proceed.

MR. MONSOD. Just a matter of placement. Does the proponent believe that this is better placed here than in the Transitory Provisions?

MR. DAVIDE. Madam President, to give strength to the proposal and in order to attain a symmetry in the matter of our recognition of the National Economic and Development Authority, as well as our recognition of the Monetary Board in the Article on National Economy, where this almost similar proposal appears, I think the proper situs for this must be here.

MR. FOZ. One suggestion, Madam President, instead of the words "TO THE COMMISSION," we suggest "ON THE COMMISSION."

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. May I respectfully express my view that this particular provision should be entered in the Article on Transitory Provisions.

MR. DAVIDE. I have also expressed my view, Madam President, that in the Article on the National Economy and Patrimony, more particularly on the creation and establishment by Congress of an independent economic and planning agency, we provided as a second paragraph the following: "Until otherwise provided by law, the National Economic and Development Authority shall be the independent planning agency"; and in the matter of the central monetary authority, we also provide as a second paragraph the following: "Until otherwise provided by Congress or by law, the Monetary Board shall be the central monetary authority."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We just want to call the attention of the proponent that the National Economic and Development Authority, the Monetary Board and the Central Bank have been established by law. These have been created by virtue of an act of Congress. The present Committee on Human Rights is not a creation of Congress. Does that not make a difference?

MR. DAVIDE. It would not make any difference because even if it is created as a committee, the authority creating it is the President of the Philippines in the exercise of her legislative power. And so, even if it is created merely by an executive order, that executive order partakes of the nature of law because it is by virtue of the authority of the President to legislate.

Moreover, the importance of why it should be stated here is the fact that we should now want this particular committee to exercise immediately upon the ratification of the Constitution the very functions and powers conferred to the commission created.

MR. GUINGONA. Madam President, the desire of the honorable Commissioner that there should be immediate implementation could also be achieved even if there is a transfer to the Article on Transitory Provisions. Besides, my understanding is that there is a motion or a request which we will consider regarding the reopening of the Article on National Economy and Patrimony. And, perhaps, it would be best to include all of these provisions about the Monetary Board, the NEDA and this commission under one provision in the Transitory Provisions.

MR. DAVIDE. I will leave it to the body, Madam President, insofar as the proper place for this is concerned. But, perhaps, we can vote on the concept already. So, the moment we approve this, the succeeding motion will be that it should be placed in the Transitory Provisions.

THE PRESIDENT. Will Commissioner Davide please repeat what he said about the present Committee on Human Rights?

MR. DAVIDE. The entire paragraph, which may be a section in the Transitory Provisions, will read: "UNTIL OTHERWISE PROVIDED BY LAW, THE EXISTING PRESIDENTIAL COMMITTEE ON HUMAN RIGHTS SHALL CONTINUE TO PERFORM ITS FUNCTIONS AND SHALL EXERCISE THE POWERS CONFERRED ON THE COMMISSION HEREIN CREATED."

MR. MONSOD. The committee accepts that amendment subject to a decision of the body on its proper placement.

VOTING

THE PRESIDENT. As many as are in favor of this particular amendment of Commissioner Davide which has been accepted by the committee, with the reservation as to its proper place, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Few Members raised their hand.)*

The results show 29 votes in favor, none against and 2 abstentions; this new amendment is approved.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Regarding the reservation made by Commissioner Monsod, may we defer action on this until we definitely know whether or not we are reopening the Article on National Economy and Patrimony so we can take all of these proposed transfers at the same time?

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We believe that these issues can be handled separately because, as we pointed out, there is a difference between this section and the other sections of the Article on National Economy and Patrimony and that those have already been created by law; whereas we are talking of an executive order here.

MR. GUINGONA. Then, Madam President, I respectfully move that we transfer this particular subsection to the Article on Transitory Provisions.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. We would rather throw it to the body as to whether this should be placed in this article or be transposed to the Article on Transitory Provisions.

VOTING

THE PRESIDENT. As many as are in favor that this particular amendment just approved be placed in the Transitory Provisions of the new Constitution, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Four Members raised their hand.)*

The results show 11 votes in favor, 16 against and 4 abstentions; the motion is lost.

MR. DE LOS REYES. Madam President, parliamentary inquiry.

MR. RAMA. Commissioner Rustico de los Reyes would like to be recognized, Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. Is this not the function of the Sponsorship Committee – to decide which article to place a specific provision in? Suppose we decide now that it should be placed in the Transitory Provisions, is the Sponsorship Committee not empowered anymore to transfer it to another place?

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. The view of some of the members of the Sponsorship Committee is that, with regard to matters that have been decided on the floor, the committee should respect the decision of the Commission in plenary. Of course, we are divided on this issue, but that is the view of some of the members of the Sponsorship Committee where a matter has not been decided. For example, if the transfer of a provision from one article to another has not been decided on the floor, then we have the prerogative to suggest or recommend. But once it is decided on the floor, some of us believe that there is no longer the power or authority on the part of the Sponsorship Committee to make any change or suggest any change.

Thank you.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. The parliamentary situation calls for a vote on the whole Section 1 as amended.

MR. SARMIENTO. Madam President, the section will read: "THERE IS HEREBY CREATED AN INDEPENDENT OFFICE CALLED A COMMISSION ON HUMAN RIGHTS. THE COMMISSION SHALL CONSIST OF FIVE MEMBERS INCLUDING THE CHAIRMAN AND FOUR MEMBERS ALL OF WHOM SHALL BE NATURAL-BORN CITIZENS OF THE PHILIPPINES, AND A MAJORITY OF WHOM SHALL BE MEMBERS OF THE BAR. THE TERM, QUALIFICATION AND DISABILITIES OF THE MEMBERS SHALL BE PROVIDED BY LAW."

THE PRESIDENT. May Commissioner Sarmiento repeat that last sentence.

MR. SARMIENTO. "THE TERM, QUALIFICATION AND DISABILITIES OF THE MEMBERS OF THE COMMISSION SHALL BE PROVIDED BY LAW."

And then, the last sentence reads: "UNTIL OTHERWISE PROVIDED BY LAW, THE EXISTING PRESIDENTIAL COMMITTEE ON HUMAN RIGHTS SHALL CONTINUE TO PERFORM ITS FUNCTIONS AND SHALL EXERCISE THE POWERS CONFERRED ON THE COMMISSION."

THE PRESIDENT. That is irrespective of its present membership, I suppose. I understand the present committee is composed of seven, while we have now put five here.

MR. SARMIENTO. Yes, Madam President.

THE PRESIDENT. So, will Commissioner Sarmiento read the whole section again?

MR. SARMIENTO. Yes, Madam President. "THERE IS HEREBY CREATED AN INDEPENDENT OFFICE CALLED COMMISSION ON HUMAN RIGHTS.

"THE COMMISSION SHALL BE composed of ONE Chairman AND four MEMBERS ALL OF WHOM shall be natural-born citizens of the Philippines, AND A MAJORITY OF WHOM SHALL BE members of the Bar. THE TERM, QUALIFICATIONS AND DISABILITIES OF THE MEMBERS OF THE COMMISSION SHALL BE PROVIDED BY LAW.

"THE APPROVED ANNUAL APPROPRIATIONS FOR THE COMMISSION SHALL BE AUTOMATICALLY AND REGULARLY RELEASED.

"UNTIL OTHERWISE PROVIDED BY LAW, THE EXISTING PRESIDENTIAL COMMITTEE ON HUMAN RIGHTS SHALL CONTINUE TO PERFORM ITS FUNCTIONS AND SHALL EXERCISE THE POWERS CONFERRED ON THE COMMISSION."

THE PRESIDENT. Will the Gentleman repeat that last sentence?

MR. SARMIENTO. "UNTIL OTHERWISE PROVIDED BY LAW, THE EXISTING PRESIDENTIAL COMMITTEE ON HUMAN RIGHTS SHALL CONTINUE TO PERFORM ITS FUNCTIONS AND SHALL EXERCISE THE POWERS CONFERRED ON THE COMMISSION."

THE PRESIDENT. Yes, Commissioner Bacani.

BISHOP BACANI. Madam President, when we say "CONFERRED ON THE COMMISSION CREATED BY THIS . . .," is its existence really *de facto*?

MR. SARMIENTO. It should be "ON THE COMMISSION BY THE CONSTITUTION."

BISHOP BACANI. Because it is herein created?

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. The commission referred to is the Commission on Human Rights to be created in the Constitution, because the existing body is not a commission but merely a committee.

BISHOP BACANI. Thank you very much.

MR. SARMIENTO. To make it clear, Madam President, the amendment should read: "UNTIL OTHERWISE PROVIDED BY LAW, THE EXISTING PRESIDENTIAL COMMITTEE ON HUMAN RIGHTS SHALL CONTINUE TO PERFORM ITS FUNCTIONS AND SHALL EXERCISE THE POWERS CONFERRED ON THE COMMISSION HEREIN CREATED."

VOTING

THE PRESIDENT. As many as are in favor of the entire Section 1, as read by Commissioner Sarmiento, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 36 votes in favor, none against and 1 abstention; Section 1, as amended, is approved.

MR. RAMA. Madam President, I move that we vote on the entire Section 2, as amended.

MR. SARMIENTO. Madam President, Section 2 will read: "The Commission on Human Rights shall have the following powers and functions:

"(1) Investigate all forms of human rights violations INVOLVING CIVIL AND POLITICAL RIGHTS;

"(2) ADOPT ITS OPERATIONAL GUIDELINES AND RULES OF PROCEDURE, AND cite for contempt for violations thereof in accordance with the Rules of Court;

"(3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, AS WELL AS CITIZENS OF THE PHILIPPINES RESIDING ABROAD, AND PROVIDE FOR PREVENTIVE MEASURES AND legal aid services TO THE UNDERPRIVILEGED whose human rights have been violated or IN need OF protection;

"(4) EXERCISE VISITORIAL POWERS OVER JAILS, PRISONS, OR DETENTION FACILITIES;

"(5) Establish a continuing program OF RESEARCH, education and information to ENHANCE RESPECT FOR THE primacy of human rights;

"(6) RECOMMEND TO CONGRESS EFFECTIVE MEASURES TO PROMOTE HUMAN RIGHTS AND FOR COMPENSATION TO VICTIMS OR THEIR FAMILIES, OF VIOLATIONS OF HUMAN RIGHTS;

"(7) MONITOR FOR THE PHILIPPINE GOVERNMENT COMPLIANCE WITH INTERNATIONAL TREATY OBLIGATIONS ON HUMAN RIGHTS;

"(8) GRANT IMMUNITY FROM PROSECUTION TO ANY PERSON WHOSE TESTIMONY OR WHOSE POSSESSION OF DOCUMENTS OR OTHER EVIDENCE IS NECESSARY OR CONVENIENT TO DETERMINE THE TRUTH IN ANY INVESTIGATION CONDUCTED BY IT OR UNDER ITS AUTHORITY;

"(9) REQUEST THE ASSISTANCE OF ANY MINISTRY, BUREAU, OFFICE OR AGENCY IN THE PERFORMANCE OF ITS FUNCTIONS;

"(10) APPOINT ITS OFFICERS AND EMPLOYEES IN ACCORDANCE WITH LAW; AND

"(11) Perform such other duties and functions as may be PROVIDED by law."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. There were two amendments earlier accepted by the committee and voted upon favorably by the Commission which were not incorporated in what has been read: The first is on Section 2 (1) which says: "ON ITS OWN OR ON COMPLAINT BY ANY PARTY," and the other is on Section 2 (10) which says: "APPOINT ITS OFFICERS AND EMPLOYEES IN ACCORDANCE WITH LAW."

MR. SARMIENTO. We read the amendments, Madam President.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. In reading Section 2(1), did I hear the term "civil and political rights" instead of human rights?

MR. SARMIENTO. Will the Gentleman kindly repeat his question?

MR. PADILLA I was inquiring whether I heard correctly the term "civil and political rights" instead of human rights on Section 2(1).

MR. SARMIENTO. Yes, Madam President. Let me read the whole paragraph: "Investigate, ON ITS OWN OR ON COMPLAINT BY ANY PARTY, all forms of human rights violations INVOLVING CIVIL AND POLITICAL RIGHTS."

THE PRESIDENT. So the Gentleman is limiting human rights to violations of civil and political rights. Is that the intention?

MR. SARMIENTO. In this section, yes, Madam President.

MR. PADILLA. I do not know about the wisdom of limiting human rights only to civil and political rights. In fact, I doubt whether political rights are included strictly in the term "human rights."

MR. SARMIENTO. Madam President, we have another section covering that point; it will be Section 3. May I ask Commissioner Nolledo to read Section 3, his amendment?

MR. NOLLEDO. May I refer the body to Commissioner Davide who made this substitute amendment.

MR. DAVIDE. Madam President, Section 3 reads: "CONGRESS MAY PROVIDE FOR OTHER CASES OF VIOLATIONS OF HUMAN RIGHTS THAT SHALL FALL WITHIN THE AUTHORITY OF THE COMMISSION, TAKING INTO ACCOUNT ITS RECOMMENDATIONS."

MR. PADILLA. Madam President, I do not believe in the wisdom of limiting human rights violations, under Section 3(1), to civil and political rights.

Thank you, Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. I have a question for clarification before we vote, Madam President. When there is an assertion of the primacy of human rights, primacy vis-a-vis what? We are speaking of the primacy of human rights – primacy in relation to what? "Primacy" is a relational term. One may speak of the primacy of labor in relation to capital, for example. But here it is spoken of absolutely. So, what do we mean by that?

MR. GARCIA. Here, we are referring to the basic human rights which are inalienable. In other words, these are constitutional guarantees that must be respected regardless of any emergency situations which perhaps may occur where some rights can be derogated. As is accepted also in international covenants or conventions, there are certain situations where some rights may be derogated, but they are basic rights which can never be taken away, and these are the basic rights that we are respecting.

BISHOP BACANI. Yes. But when we are speaking of the primacy of human rights, we actually do not make a distinction of which human rights have the primacy. Which among the human rights has the primacy? We are just speaking of primacy of human rights *tout court;* it is just like that.

MR. GARCIA. In general, we are saying that these rights are fundamental or are important. This is the kind of idea that we want to put across in this statement.

BISHOP BACANI. Does the Gentleman mean all civil and political rights?

MR. GARCIA. Yes, especially those which are inalienable; in other words, those belonging to the individual. In other words, the power of the State, or what we would call reasons of State, can never touch basic human rights which are given to each person in society.

BISHOP BACANI. Madam President, would the Gentleman consider the right to assembly among the human rights that he wishes to indicate?

MR. SARMIENTO. Yes, Madam President.

BISHOP BACANI. Under certain circumstances, such a right can be controlled by the State, can it not?

MR. SARMIENTO. That is correct.

BISHOP BACANI. Therefore, when we speak of the primacy of human rights in that sense, it would not be correct?

MR. SARMIENTO. As a general rule, Madam President, we should respect the primacy of human rights, but this does not mean that we should not take into account other provisions of the Constitution.

BISHOP BACANI. That is it, Madam President. What is it "primary" in relation to? That is what I am speaking of.

MR. SARMIENTO. Madam President, these are basic inalienable human rights. We should not speak of rights in relation to anything, to any person or entity.

BISHOP BACANI. My difficulty is this – pardon me if I use religious terminology – when we speak for example, of the primacy of the Pope, we speak of the primacy of one person over others. When we speak of the primacy of the President in this Constitutional Commission, we speak of her primacy in relation to the Members. But here, we simply speak of the primacy of human rights in relation to what?

MR. GARCIA. The primacy of life, for example, over property rights. Human rights are the rights that a person needs to be able to survive, to be called "human," and these are the basic rights that he is endowed with.

BISHOP BACANI. Yes. I have no quarrel about that. Primacy in relation to what? That is my very simple question. Is it primacy in relation, for example, to the exigencies of development?

MR. GARCIA. Yes, definitely to other rights.

THE PRESIDENT. May we call on Commissioner Villegas? Maybe he would like to contribute something to this discussion.

MR. VILLEGAS. Yes. To clear up the ambiguity of words, could we say "ENHANCE RESPECT FOR THE INALIENABLE NATURE OF HUMAN RIGHTS," because I think that is the meaning it seeks to convey.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I think the discussion of the concept of primacy in the context of its being a relational concept is at best a diversion. When we speak of a relational concept, it does not necessarily have to be adversarial. In fact, it can be mutually supportive, mutually reinforcing such as, I understand, the position of the committee when it says "the primacy of human rights." We do not have to compare this in a hierarchy of values. In fact, the position of the committee is that, in the hierarchy of legal values or constitutional mandate, human rights take preeminence over other considerations which may even support or reinforce it. It does not have to be adversarial. It is not, of course, a zero sum.

BISHOP BACANI. Yes. That is what I am asking.

THE PRESIDENT. How about Commissioner Rosario Braid?

MS. ROSARIO BRAID. Maybe, the difficulty of Commissioner Bacani is that he needed to compare the concept of human rights with another noun.

BISHOP BACANI. I was really asking for something of that sort.

MS. ROSARIO BRAID. So, if we equate human rights with individual rights, we could say primacy of individual rights over collective rights. This is probably what Commissioner Bacani is seeking for. I mean, Commissioner Bacani is seeking for the primacy of human rights over something.

BISHOP BACANI. Please let me explain. If we speak of the primacy of human rights without any qualification whatsoever, I ask precisely about the right to assembly. In this case, the right to assembly under certain circumstances may yield to something else and, hence, it is not shown to have any primacy at all.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. The way I appreciate the dilemma of Commissioner Bacani is that he wants to canalize the concept of primacy within a negative relationship wherein one offsets the other. It does not have to be so because the basic postulate of the committee is that human rights are important, they have preeminence, and in the hierarchy of values, they take prior notice.

MR. GARCIA. Madam President, I think the issue has been explained very well. That is precisely the point we want to make – the preeminence of human rights.

BISHOP BACANI. Preeminence over what?

MR. GARCIA. Political, civil, social and economic rights. We are not trying to compare. We are simply saying the preeminence of human rights, of the totality of these rights. That is the sense.

BISHOP BACANI. Madam President, when we speak of the preeminence of something, it is over some other thing which is not necessarily adversarial. I am not saying it is necessarily adversarial. But when we speak of a preeminence, it is over something or over some persons. This is what I am just trying to clarify because if we speak of them completely in that sense, just wholesale, as was admitted by Commissioner Sarmiento, we cannot simply speak of the preeminence of this particular human right over, for example, the exigencies of national security at the particular point in time.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I was just wondering, Madam President, if we can resolve this in the context of a parallel provision. If we will recall in the Article on Social Justice, we talked about Congress giving highest priority to the enactment of laws. The explanation was that highest priority does not necessarily mean the exclusion of other priorities, but that this is the first that should be taken up by Congress. I do not know if that resolves the issue raised by Bishop Bacani. In this case, when we say "the primacy of human rights" we mean the highest value but it does not necessarily mean that there are no values that could be at par with it.

BISHOP BACANI. Yes. But I wish to point out that I am not opposed to this. I am only asking for an explanation so I can vote intelligently. In this particular case, it was quite well explained by Commissioner Bernas that when we speak not of the highest priority, but that something should be given highest priority, this means it should be among the laws that Congress will tackle first. And there is a particular point of reference. There is a point of relationship. The only thing I am asking for is the point of reference here, especially because the word used is really stronger than highest priority – we are speaking of primacy.

THE PRESIDENT. Let us be guided by the intent of the committee in the use of the word "primacy." I suppose that will settle the whole matter.

MR. SARMIENTO. The intent of the committee, Madam President, is to stress the importance of human rights, not primacy of human rights over anything, but to stress the importance of human rights.

BISHOP BACANI. So, why do we not say "TO PROPAGATE THE GREATEST IMPORTANCE OF HUMAN RIGHTS"?

MR. RAMA. Madam President, I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Does Commissioner Azcuna wish to be recognized?

MR. AZCUNA. I yield to Commissioner Suarez, Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

I heard Commissioner Padilla question the propriety of practically defining the sphere and scope of human rights violations to civil and political rights under Section 2(1). I do not know if this matter has already been taken up in connection with the question of jurisdiction. This provision would operate against the jurisdiction of existing investigatory bodies. For example, an investigation conducted by the Commission on Human Rights would operate to divest the fiscals of jurisdiction to investigate mother cases which could also involve at the same time violations of human rights.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, we explained a few days ago that the investigation will be conducted by the Human Rights Commission without depriving appropriate agencies of the government to conduct prosecution. But the fiscal on his own can also conduct a supplementary investigation of human rights violations.

MR. SUAREZ. Are they not exclusive of each other?

MR. SARMIENTO. Not exclusive, Madam President.

MR. SUAREZ. If an investigation is already being conducted by the fiscal, will that not operate to deprive the Commission on Human Rights of jurisdiction to conduct further investigation on the human rights aspects?

MR. SARMIENTO. Our submission is that primacy will be given to the investigation being conducted by the Commission on Human Rights.

MR. SUAREZ. Suppose there are two conflicting findings – a fiscal would say after investigation, "There is no case"; and here is the Commission on Human Rights saying after investigation, "There is a strong case." What happens then with respect to the prosecution of the guilty party or parties?

MR. SARMIENTO. Our position, Madam President, is that all forms of human rights violations involving civil and political rights will be conducted by this commission to the exclusion of other agencies of the government.

MR. SUAREZ. It will not go further than the indictment of the guilty parties?

MR. SARMIENTO. There will be no indictment. As we said, we limit it to the investigation. The prosecution will be conducted by the fiscal, by the Ministry of Justice or agencies of the government.

MR. SUAREZ. Madam President, if we promote the investigation to the judicial level on the assumption that the fiscal would already file the case after conducting a preliminary investigation and the case is now pending before the courts, will that not serve to divest the Commission on Human Rights of further right to investigate the human rights violations?

MR. SARMIENTO. If the case has been filed by the fiscal and is now pending before the courts, then that deprives the commission of the right to conduct its investigation. All it can do is to assist the fiscal in the prosecution of these cases.

MR. SUAREZ. Would that not subordinate what we call the primacy of human rights to judicial proceedings, Madam President? I thought we were fighting for the primacy of human rights.

MR. SARMIENTO. Let us clarify, Madam President. We have said that the investigation of all forms of human rights violations involving civil and political rights will be conducted primarily by this commission. The prosecution will be conducted by the fiscals.

MR. SUAREZ. I see. But it is theoretically possible that the noble motivation behind the creation of the Commission on Human Rights may not be effectively exercised the moment a case is filed in court. Can we think of ways and means to prevent the stifling of this noble primacy of human rights theory?

MR. SARMIENTO. Madam President, let us make a distinction. The prosecution of cases will be handled by the fiscals. All that the Commission on Human Rights will undertake is the investigation. The prosecution of all cases involving human rights will not be stifling that power to investigate by the commission. Here we should make a distinction – investigations shall be conducted by the commission; prosecution to be conducted by the fiscals.

MR. SUAREZ. But may I go back to my original example. If there are conflicting findings, what would be the recourse of the Commission on Human Rights in order to further the prosecution in accordance with its findings when the fiscal says: "No case, sir"? What are we going to do?

MR. FOZ. Madam President, there are remedies. The procedure under our existing rules is for the fiscal to conduct the preliminary investigation or the prosecutor of the Ministry of Justice will conduct the preliminary investigation. But before that, the fact-finding aspect is handled exclusively by the proposed Commission on Human Rights. In other words, the evidence, the materials are gathered by the commission itself. After the investigation, all evidence, all the papers are referred to the fiscal's office for the formal preliminary investigation. During the preliminary investigation, I suppose the commission will actively involve itself by providing assistance to the aggrieved parties. And from thereon, if the fiscal files the case or refuses to file the case on the ground of lack of evidence, lack of probable cause of *prima facie* evidence, then there is the remedy of appeal to the Ministry of Justice to review the findings of the fiscal.

MR. SUAREZ. That is correct from the procedural standpoint but what happens to the good decision and findings of the Commission on Human Rights when it is faced with the findings of the fiscal that there is no violation? Can we not strengthen this office over and above the findings of the fiscal?

MR. FOZ. Unless we are willing to grant the proposed commission judicial or quasi-judicial functions, it will stop short of doing just that.

MR. BENGZON. Madam President, may I request Commissioner Suarez to yield to me because this was precisely the thrust of my interpellation when we were in the period of interpellations?

MR. SUAREZ. Gladly, Madam President.

MR. BENGZON. Madam President, this was precisely my difficulty when we were in the period of interpellations. I had envisioned possible confusion in the investigation of these human rights violations that is why I wanted to zero in on what human rights violations mean. I wanted to sharply focus the jurisdiction of the commission over human rights violation because my interpretation of this section was that the Human Rights Commission would have exclusive jurisdiction in the investigation of human rights violations. After they investigate and they find a *prima facie* case, then they should refer this to the fiscal's office, and the fiscal has no choice but to prosecute. But the way I understand the explanation of the committee now is that this is not exclusive. A complainant goes to the Human Rights Commission and files his complaint, but at the same time he can also go to the fiscal's office and file his complaint. So, there will be two agencies investigating the case and there may be two conflicting decisions. What I understood was that human rights violations will be exclusively investigated by the commission, to the exclusion of the other agencies of the government, to the exclusion of the Ombudsman and to the exclusion of the fiscal's office.

MR. FOZ. Madam President.

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. What I have just explained refers to the ordinary interpretation of the word "investigate." But if our intention really is to strengthen the proposed Commission on Human Rights, then we should be able to give it its investigative power to include an exclusive power to investigate, to the exclusion of the ordinary prosecutory offices of the government. That would conform with the views now expressed by Commissioner Bengzon, so that an investigation completed by the commission would no longer be reviewed by the fiscal's office or the Ministry of Justice. Once the papers of the case are received by the fiscal's office or the Ministry of Justice, the fiscal's only duty would be to file the case in court and prosecute it.

SUSPENSION OF SESSION

MR. BENGZON. Madam President, may I move that we suspend the session until two-thirty this afternoon.

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 1:02 p.m.

RESUMPTION OF SESSION

At 3:02 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we continue consideration of the Article on Human Rights.

THE PRESIDENT. May we ask the honorable members of the committee to please come to the front table?

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Bengzon be recognized.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, this is on the matter of the difficulty that Commissioner Suarez and I had late this morning just before we recessed for lunch, and this is with respect to Section 2(1). We are willing to leave the sentence as is:

> Investigate on its own or on complaint by any party, all forms of human rights violations involving civil and political rights.

With regard to the investigative powers of the commission, after discussing this matter with the committee over lunch, we agreed that the word "investigate" would mean that the Human Rights Commission will have the exclusive power to investigate all human rights violations. And therefore, we would like to read this in the Record and in the Journal. Should the commission find a *prima facie* case, then it shall transmit these records to the proper fiscal, who must in turn file the case in court. In the event that the fiscal, after reviewing on its own the files of the case, believes otherwise, then the records would automatically be elevated to the Minister of Justice who will, in turn, make the necessary review. And if the findings of the Minister of Justice agree with the findings of the commission, a special prosecutor would then be appointed by the Minister of Justice to prosecute the case. If, however, the findings of the Minister of Justice would be in agreement with the findings of the fiscal, then that is the end of it.

With that interpretation entered in the Record, then I believe Commissioner Suarez and I will be satisfied with this particular paragraph.

MR. SARMIENTO. Madam President, some Commissioners have expressed their reservations with respect to the comments made by Commissioner Bengzon. It is possible, they say, that the Ministry of Justice will not be supportive of the commission, so that it is possible that the ministry will delay the case. That would defeat the purpose of the commission. Because of that reservation, we have formulated a section which we would like to share with the body for their comments.

MR. BENGZON. Is it a section that will be included in the Constitution or will it be just the interpretation of this sentence that will be read in the records?

MR. SARMIENTO. This will be an interpretation of that paragraph concerning investigation.

MR. BENGZON. Can we hear it then?

MR. SARMIENTO. "The Commission may deputize fiscals or government prosecutors if warranted by the evidence for the filing of appropriate cases in court."

MR. BENGZON. Does the Gentleman mean that the commission will now have the power to directly deputize the fiscal of the proper province or city to file the case in court should it find that there is a *prima facie* case?

MR. SARMIENTO. Yes, Madam President.

MR. BENGZON. And under that instance, the fiscal has no choice but to file and prosecute the case?

MR. SARMIENTO. Yes.

MR. BENGZON. What happens if the fiscal does not agree with the finding of the commission?

MR. SARMIENTO. If the fiscal does not agree, then the commission can deputize any competent person to prosecute the case.

MR. BENGZON. Any practicing lawyer, for instance?

MR. SARMIENTO. He could be a practicing lawyer.

MR. BENGZON. Let me consult with Commissioner Suarez on that.

MR. FOZ. Or maybe an alternative would be for the commission to consult the Ministry of Justice for the assignment of another fiscal or state prosecutor who may be deputized for the purpose.

MR. BENGZON. The problem there is that it is really the Minister of Justice who has control and supervision over all these prosecution agencies. And, therefore, for us to give this additional power to the commission would be making an exception to the rule.

MR. FOZ. But we envision that this will not be a regular thing, that the deputation will be an exceptional procedure, that the commission will be very careful in referring or in deputizing the fiscals or the government prosecutor and will see to it that only in those instances where the evidence is really strong and can hold water will the commission really go ahead with the deputation.

MR. BENGZON. That is a bit vague. In other words, is the Gentleman trying to say then that this proposal of his is just a fall-back position, and that the general procedure would be to refer the matter first to the fiscal and only in the event that the fiscal refuses to prosecute would the commission then have the right to deputize another fiscal or any practicing lawyer that would have the right to prosecute? Am I to understand that, Madam President?

MR. FOZ. No. It will be a direct action by the commission to deputize the fiscal concerned and if the fiscal withdraws or refuses, then the commission may request the Ministry of Justice to assign a state prosecutor which is a regular practice by the Ministry of Justice. In case the regular fiscal is not available for any reason at all or is accused of bias or prejudice in a certain case, the practice in the Ministry of Justice is actually to assign a state prosecutor to handle the case even if it is out of town or in far-flung provinces.

MR. BENGZON. In other words then, I am wrong in understanding that under the proposal of Commissioner Foz, the commission can directly appoint a special prosecutor.

MR. FOZ. No, that is the first step. The commission will directly deputize the fiscal concerned and the fiscal is bound by the findings of the commission. And so, the fiscal will file the case in court and prosecute with the active assistance of the commission or its lawyers.

MR. BENGZON. Yes. If it happens that the fiscal does not believe in the findings of the commission?

MR. FOZ. Then that is the time for the commission to request the Ministry of Justice for the assignment of a special prosecutor whom it will also deputize, whom it will also designate as its deputy in the prosecution of that particular case.

MR. BENGZON. So, the only difference between the proposal of Commissioner Foz and mine is that, in my case, the records will still have to be reviewed by the Minister of Justice; while in his case, there is no more need for the Minister of Justice to review because the Constitution will give that right to the commission to request the Minister of Justice to immediately assign a special prosecutor.

MR. FOZ. Yes. There is a short circuiting of the procedure so that there is a quick, speedier action on a particular case.

MR. BENGZON. That is all right with me.

THE PRESIDENT. The Chair believes, in brief, that the Commission on Human Rights is now becoming a superbody over and above even the Ministry of Justice.

MR. BENGZON. That is the reaction that I am beginning to consider, Madam President.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, that is also my concern because we seem to have a dichotomy in the matter of prosecutorial services. Under our present system of justice, it is the Minister of Justice who is in full charge of all prosecutorial services from which even now, the special prosecutor, formerly the Tanodbayan, has to get his bearings in the matter of deputation.

Firstly, according to what I have heard, it is the position of the committee that the moment the Human Rights Commission finds a *prima facie* case – under the present rules, we do not call that a *prima facie* case anymore nor a probable cause, we call that now "only sufficient grounds to believe that a crime has been committed" under the 1985 Rules of Criminal Procedure – then it will prosecute. This was actually taken from Presidential Decree No. 911. When the case is sent to the fiscal's office, and this time the commission is in effect the complaining party, the fiscal has to proceed in accordance with the 1985 Rules of Criminal Procedure. If the fiscal differs from the position of the commission, which is the complaining body, he cannot be bound and be compelled to prosecute even if the fiscal believes there is no *prima facie* case because a fiscal is not a ministerial officer. The fiscal is a quasi-judicial officer and to compel him to prosecute the case, as has been explained in the case of *Liwag vs. Salcedo* or rather *Salcedo vs. Liwag,* would do grave injury to our prosecutorial system of penal justice. We cannot compel a person vested with discretionary powers to file and prosecute a case as if he were a ministerial officer. That has been pointed out as early as in the case of *Guiao vs. Figueroa* a long time ago. If the fiscal disagrees, the remedy is for the complaining party to bring up the matter to the Minister of Justice. That was the procedure even before as explained by the Supreme Court in the case of *Assistant Provincial Fiscal of Bataan vs. Dollete.* It later became P.D. No. 911 and now, it is part of our Rules on Criminal Procedure adopted in 1985. But to compel the fiscal and bind him by the finding of an administrative agency will reduce the fiscal to being a mere robot. That is why the law has made such provisions.

However, if the commission wishes to avoid all the trouble of going to the fiscal's office, and since they themselves can be assisted by a special prosecutor, then they can avail of the provisions of the Revised Administrative Code – Section 1686, for instance, provides additional counsel to assist fiscal. They can have special prosecutors assigned to them by the Ministry of Justice which prosecutors will conduct the preliminary investigation and proceed to file the case without having to deal anymore with the regular or city fiscals, provincial fiscals as the case may be.

But to proceed on that theory that the fiscals are bound by the findings of the commission and can thereby be compelled to file and prosecute the case, I think, will destroy completely the concept of the prosecutorial service that we have had for so many years already.

MR. SARMIENTO. Madam President, we are aware of that procedure. However, we have these fears that if elevated to the Ministry of Justice, the Ministry of Justice might delay the case or might decide otherwise.

MR. REGALADO. Then why not have special prosecutors assigned to the commission itself?

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. With due respect to the position of the committee, I fully support the dissertation made by Commissioner Regalado. There is no reason for us to feel insecure about the potency of the Human Rights Commission. The fact is we have already elevated it to the level of a constitutional body. That by itself renders it viable and potent in implementing and enforcing its powers and functions. It would be different if it were any ordinary administrative or quasi-judicial body. But the fact that it is a constitutional body gives it enough moral compulsion such that its rulings and decision will have a very strong persuasive effect on the prosecutorial arm of the judiciary. At this moment we cannot deprive the fiscals of their discretionary powers lest we disturb the very essence of the adversary system in prosecution.

MR. BENGZON. Madam President, in view of all these statements, I would like now to have the issue on our interpretation decided by the body.

MR. FOZ. Madam President.

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. Madam President, we have consulted with several Commissioners who are far wiser than we in the committee. We are, however, concerned with the sad prospects that the findings of the commission might just be sidelined or thrown aside by the fiscal who would not exactly agree with the findings of the commission. In such a case, an appeal could be made to the Minister of Justice following the regular procedure on appeals from the rulings and resolutions of fiscals, considering that if we grant the commission the power to directly deputize, the fear has been expressed that this might destroy existing provisions of law and existing procedures on the discretionary power of the fiscals in such matters that directly bear on his functions. The committee is then willing to subscribe to the interpretation made by the chairman of the Steering Committee on the provision of the extent and the scope of the power of the Commission on Human Rights to investigate.

Thank you.

MR. BENGZON. Thank you very much.

MR. NOLLEDO. Madam President, I would like to make some important remarks, if I may be permitted by the Chair.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I understand that under the 1985 Rules on Criminal Procedure which adopted some provisions of P.D. No. 911, the fiscal does not conduct actual hearings for purposes of preliminary investigation. The complainant files an affidavit, together with supporting affidavits, of his witnesses and the respondent files counteraffidavits. It is only when the fiscal would like to be clarified on certain matters that he will propound some clarificatory questions. So, Madam President, I feel that the Commission on Human Rights is really a fact-finding body and, therefore, there should be a provision in the committee report that, as a fact-finding body, the duty of the fiscal to determine the existence of a *prima facie* case should be taken over by the Commission on Human Rights. Therefore, the moment the Commission on Human Rights determines the existence of a *prima facie* case, there should be a provision that the commission can deputize any prosecutor or any person, any lawyer for that matter, to prosecute the case before the appropriate court of justice. What I mean is that the fiscal is deprived of the jurisdiction to determine the existence of a *prima facie* case and it is the Commission on Human Rights that should determine the existence of the *prima facie* case. And when the existence of the case is so determined, the commission should not be powerless to deputize any person, even a fiscal, or to request the Ministry of Justice to appoint a fiscal to be deputized by the commission to prosecute the case.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Madam President. I heard Commissioner Bengzon use the word "exclusive," and from the committee, I heard that the commission "may deputize" fiscals. Madam President, under Rule 110 of the 1985 Rules on Criminal Procedure, which updated the 1940 and the 1964 Rules of Court, the prosecution of offenses is commenced by complaint or information. And Rule 112 provides for preliminary investigation. This covers felonies not only under the Revised Penal Code but also under the special penal laws, and all those may involve violations of human rights. For example, a person is murdered or there is a holdup or robbery with homicide, and these are the only more serious felonies but there are so many other grave felonies, less grave and light felonies. Our present system is to have a complaint filed with the fiscal's office, and the fiscal's office in every province, and probably even in every city and municipality, will conduct a preliminary investigation in accordance with the Rules on Criminal Procedure. There are thousands, maybe hundreds of thousands, of cases being filed all over the country but under this proposal all the criminal cases may have to be referred to the Commission on Human Rights. How can the commission undertake the immediate preliminary investigation leading to the filing of the criminal information for prosecution, trial and judgment? We may be destabilizing the whole system of criminal procedure in our country under these proposals of the committee, which seem to ignore the present satisfactory situation. There may be a few instances where the fiscal prosecutes when he should not, or he does not prosecute when he should, but these are exceptional cases, and the Rules provide for the aggrieved party to file an appeal with the Minister of Justice. There are cases where a complaint or an information has already been filed in court, and notwithstanding the efforts of the fiscal to either prosecute or to dismiss the case, the trial courts correctly hold that once the information has been filed and especially after the accused has been arraigned, it is no longer the province of the prosecuting arm. The decision rests exclusively on the courts of justice.

We cannot make the prosecution of offenses which involve the more important human rights dependent on the action of this proposed commission. Our system now is that a private person, the aggrieved party, the police, the constabulary, the peace or law enforcement agencies, and even private prosecutors, may file a complaint leading to an information by the fiscal. But to provide that the commission must first deputize the fiscals or that the commission must have the exclusive authority or jurisdiction is not to promote or protect human rights nor to punish the violators of human rights, but maybe to place so many impractical obstacles in the speedy administration of justice.

MR. SARMIENTO. Madam President, we have accepted the interpretation made by Commissioner Bengzon, but we have these remarks made by Commissioner Nolledo. We would like to throw the issue to the body.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Before the body votes, may I just restate the issue so that everything is clear.

There were two things that were brought up by Commissioner Padilla, one is this exclusivity aspect and the other one is the deputization aspect. I suggest that we take up these two issues one by one and vote on them one at a time. The first issue I would like to put to a vote is whether or not the Human Rights Commission will exclusively investigate human rights violations.

MR. PADILLA. Madam President, I think the first issue has been decided this morning when I objected to the phrase "exclusive jurisdiction" or "exclusive authority," and Commissioner Nolledo and the committee sustained the objections to exclusivity.

MR. BENGZON. That is precisely why I stood up and raised this question again because during the period of interpellations I was made to understand that the commission will have exclusive jurisdiction over the investigation of these human rights violations.

SUSPENSION OF SESSION

THE PRESIDENT. The Chair suspends the session for a few minutes.

It was 3:28 p.m.

RESUMPTION OF SESSION

At 3:36 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Sarmiento, the chairman of the committee, be recognized.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, after conferring with the members of the committee, this is now our interpretation of Section 2(1): The commission shall exclusively investigate all forms of human rights violations. This means that if there is a *prima facie* case, the commission will refer it to the fiscal for filing. If the fiscal agrees to file it, then there is no problem. If the fiscal disagrees, the case will automatically be elevated to the Ministry of Justice. If the Ministry of Justice agrees with the commission's findings, the case will be assigned to a special prosecutor whom the Ministry of Justice will deputize. If the Ministry of Justice, after evaluation of the case, disagrees with the commission, that is the end of the case. That is our interpretation of Section 2(1).

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Just one clarificatory question. In the first statement given by Commissioner Sarmiento, he used the word "exclusive" to define "jurisdiction." In the second reading of the interpretation, the word "exclusive" no longer appeared. Which shall be the controlling statement?

MR. SARMIENTO. May I clarify that point, Madam President. The second statement is the controlling statement, not the first one.

MR. NOLLEDO. Madam President, one very important clarificatory question. The moment the Minister of Justice decides not to file the case, considering that he is an alter ego of the President, I disagree that the case is terminated there because of the possibility of appeal to the Office of the President. It is only when the Office of the President affirms the decision of the Minister of Justice that the case terminates there, because the Minister is under the control of the President. So I hope the committee will qualify its statement that the moment the Minister of Justice says that there is no *prima facie* case, we do not preclude an appeal on the part of the aggrieved party or the complainant to the Office of the President. Am I right?

MR. SARMIENTO. Yes, the Commissioner is right.

MR. NOLLEDO. Thank you very much.

THE PRESIDENT. I would just like to call the attention of the Commissioners whether or not all these different subsections of Section 2 have been approved individually, either yesterday or this morning.

What we are going to do now is to vote on the whole Section 2 with all its subsections. I request Commissioner Sarmiento to read the whole Section 2.

MR. PADILLA. Madam President, before the reading of the whole Section 2, may I say that this matter be left to the Supreme Court because this is part of the judicial system. Why will this Commission now provide for certain rules when the Rules on Criminal Procedure, as well as the Rules of Court, has been promulgated by the Supreme Court? That is already covered by the approved Article on the Judiciary.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, before the reading of the whole Section 2, may we request the committee to listen to the explanation of Commissioner Aquino regarding that primacy, because the explanation of the committee was not so convincing and persuasive. I would like to ask Commissioner Aquino to present to the committee for approval her own explanation of it.

MR. SARMIENTO. May I yield to Commissioner Aquino, Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I hope this will satisfy Commissioner Bacani and the committee. I think the intent of the concept of primacy or terms of application is that any apparent conflict between the exigencies of the times and the people's basic human rights must be resolved according to the principle that a social organization exists to serve and to protect men, and that it cannot claim to serve the common good if human rights are not safeguarded.

MR. SARMIENTO. May I proceed, Madam President. Section 2 states: "The Commission on Human Rights shall have the following powers and functions.

"(1) Investigate, on its own or complaint by any party, all forms of human rights violations involving civil and political rights;

"(2) Adopt its operational guidelines, rules of procedures and cite for contempt for violations thereof in accordance with the Rules of Court;

"(3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as citizens of the Philippines residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;

"(4) Exercise visitorial powers over jails, prisons, or detention facilities;

"(5) Establish a continuing program of research, education and information to enhance respect for the primacy of human rights;

"(6) Recommend to Congress effective measures to promote human rights and for compensation to victims or their families of violations of human rights;

"(7) Monitor the Philippine government's compliance with international treaty obligations on human rights;

"(8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;

"(9) Request the assistance of any ministry, bureau, office or agency in the performance of its functions;

"(10) Appoint its officers and employees in accordance with law; and

"(11) Perform such other duties and functions as may be provided by law."

VOTING

THE PRESIDENT. As many as are in favor of the whole Section 2 as read by Commissioner Sarmiento, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(A Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 31 votes in favor, 1 against and 2 abstentions; the whole Section 2 is approved.

MR. RAMA. Madam President, I move that we close the period of amendments on the Article on Commission on Human Rights.

THE PRESIDENT. I think there is still another section for consideration, which is Section 3.

MR. RAMA. I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Section 3 says that Congress may provide for other cases of human rights violations that should fall within the authority of the Commission taking into account its recommendations.

BISHOP BACANI. Madam President.

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THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, may I ask the committee how that would differ substantially from the last function of the commission as enumerated, which states: "Perform such other duties and functions as may be provided by law." Is not that the last one?

MR. SARMIENTO. No, this is the intent of Section 3, Madam President. As we have said, this commission has a modest attempt and that is to investigate all forms of human rights violations involving civil and political rights, but we envision the inclusion of other human rights like economic, social and cultural rights. In the future, or as the need arises, the Commission may investigate human rights violations affecting these rights. This is the reason we leave it to Congress to provide for other cases of human rights violations upon the recommendation of the commission.

BISHOP BACANI. But, precisely, is that not covered by the last function, "Perform such other duties and functions as may be provided by law"?

MR. FOZ. Madam President, Section 3 is a more particular directive to Congress to look into the feasibility of providing that other cases or instances of human rights violations may also be investigated or fall within the authority of the commission to investigate. On the other hand, Section 2(11) is a catchall provision which would authorize the commission to perform other functions that Congress may assign to it.

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BISHOP BACANI. Yes, but, precisely, since it is a catchall provision, I thought that was what the Commissioner meant by this Section 3.

MR. FOZ. Yes. But there is nothing like providing for a specific directive to Congress to look into the feasibility of, perhaps, expanding the authority of the commission to investigate other cases of human rights violations.

BISHOP BACANI. Does the Commissioner not think that Section 2(11) would be adequate?

MR. FOZ. I do not think that would be adequate to express the constitutional directive to Congress to make such a feasibility study into further broadening the scope of the authority of the commission.

BISHOP BACANI. In fact, to be honest with the Commissioner, when I voted for the whole Section 2, I thought the understanding was that that last function, "Perform such other duties and functions as may be provided by law," covers what is now proposed in Section 3. So I have no objection to that.

MR. FOZ. We look at the said section in that light, Madam President.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. I also ask the same question asked by Commissioner Bacani because I did make a proposal worded similarly to that effect, and Commissioner Bernas said that that is contained in the last provision under "other function." That is the reason why I have withdrawn my proposal for Congress to expand the functions because I was satisfied by Commissioner Bernas' reply that that would be taken care of by the last provision. So if we look at yesterday's Journal, that is the same proposal I made yesterday.

MR. SARMIENTO. Madam President, this amendment was proposed by Commissioner Nolledo and we voted on it favorably. So may we ask Commissioner Nolledo what is the intent of this proposal which was approved by the body.

MR. NOLLEDO. I understand that the primary jurisdiction of the Commission on Human Rights is set forth in Section 2(1), where we talk of civil and political rights. I remember Commissioner Padilla asking, "How about economic and social rights or other rights, or rights other than civil and political rights?" That is the reason why we are opening an avenue towards expanding the jurisdiction of the Commission on Human Rights as provided for in Section 3. We leave it to Congress to expand the jurisdiction of the Commission on Human Rights.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. The statement of Commissioner Nolledo might give the wrong impression that I was that satisfied with human rights. Precisely, I was questioning why he qualifies human rights involving civil or political rights. I never wanted to expand further because I am against the entire provision which is superfluous and overlapping.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, if this Section 3 is submitted to a vote, it is with the understanding that it will be a surplusage since the last provision in Section 2 already covers the provision.

MR. SARMIENTO. As we have explained before, this is a section that looks forward. At present, we are limiting the jurisdiction to civil and political rights. The need may arise when the commission must investigate other human rights violations involving economic, social and cultural rights.

BISHOP BACANI. Yes, but the other provision also looks forward. It does not look backward – "Perform such other duties and functions as may be provided by law." That certainly looks forward.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Section 3 is the formulation after the modification of the Nolledo proposal. May I explain that this is not a surplusage. This is with full meaning and import. If we consider Section 2(1), we will notice that the power is to investigate violations of human rights affecting civil and political rights. Let us remember that this is a power. Section 2(5), which was pointed to by Commissioner Bacani, refers to other duties and functions which would not, therefore, include the broadening of the power to investigate other cases of human rights violations. I repeat, it is not a surplusage; it is not repetitious. It seeks to broaden precisely the power of the commission later because it is only starting rather very modestly.

MR. NOLLEDO. Madam President, just one statement. If we are to adopt the interpretation of Commissioner Bacani, we will be unduly burdening the Commission on Human Rights and, in effect, we negate the laudable purposes for which it was established.

Thank you.

MR. RAMA. Madam President, the body is now ready to vote.

THE PRESIDENT. The Chair asks Commissioner Sarmiento to read Section 3 again.

MR. SARMIENTO. Section 3 provides: "Congress may provide for other cases of human rights violations that should fall within the authority of the commission taking into account its recommendations."

VOTING

THE PRESIDENT. As many as are in favor of this section, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 28 votes in favor, 3 against and 2 abstentions; Section 3 is approved.

MR. RAMA. Madam President, I move that we close the period of amendments on the Article on Human Rights Commission.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, if there is no objection from any of the Commissioners, I move that we approve on Second Reading the Article on Commission on Human Rights.

MR. RODRIGO. Madam President.

THE PRESIDENT.. Commissioner Rodrigo is recognized.

MR. RODRIGO. Before we vote on Second Reading on the Article on Human Rights Commission, I would like to propound a few questions.

The object of my questions is to apprise our people on what to expect and what not to expect from these provisions which we are considering. I would like to premise my question by stating that this provision regarding the creation of a Commission on Human Rights is not self-implementing. It calls for an implementing legislation, especially for the appropriation of needed funds by Congress. Am I correct, Madam President?

MR. SARMIENTO. The Commissioner is correct, Madam President.

MR. RODRIGO. In the meanwhile, while Congress has not yet acted, the Presidential Committee on Human Rights continues to function. And, as a matter of fact, in the Transitory Provisions, there is a proposal to give to the Presidential Committee on Human Rights the powers given to the Commission on Human Rights. Am I correct?

MR. SARMIENTO. Yes, Madam President.

MR. RODRIGO. I was just imagining that, if I were a Member of Congress, and I see that we have this Presidential Committee on Human Rights which is functioning very well, a committee with teeth which is being backed by the President who has the control over the ministries, bureaus and offices of the government, then I would consider this newly proposed commission, which is an "island" segregated from the President, with no inherent powers of its own. If I were a Member of Congress, I would say, "Instead of appropriating money for this new and untried commission, why do we not appropriate more for the Presidential Committee on Human Rights?" Suppose Congress does that, which I think is a very wise move, or Congress does not pass any implementing legislation to give life to this proposed commission or does not appropriate but instead strengthens the Presidential Committee on Human Rights, would Congress be acting in accordance with its constitutional powers and prerogatives?

MR. SARMIENTO. Madam President, we have this provision approved by the body, and the Constitution shall provide that there be an independent office for the Commission on Human Rights. So Congress is required to create this commission.

MR. RODRIGO. It is already created by the Constitution. But suppose Congress does not want to appropriate money for it? Instead of wasting the money of the people on this Commission on Human Rights which I label a "paper tiger," why not use that money to strengthen an already existing and tried Presidential Committee on Human Rights?

MR. SARMIENTO. But the existing Committee on Human Rights is a presidential creation.

MR. RODRIGO. Yes. Suppose Congress says, "All right, let us give it a congressional blessing. Instead of appropriating money for a new and untried Commission, let us legalize this Presidential Committee on Human Rights."

MR. SARMIENTO. That is different, Madam President. This Commission is an independent constitutional body. If Congress insists on its decision, then it will be violating the Constitution, because it mandates Congress to create an independent constitutional body.

MR. RODRIGO. Suppose Congress does what I said, the Commissioner claims it would be violating the Constitution. But what can we do about it?

FR. BERNAS. Madam President.

THE PRESIDENT. Is Commissioner Rodrigo through?

MR. RODRIGO. No, not yet, I have some other questions. This matter is very important. We might be raising the hopes of our people but afterwards frustrate them.

MR. SARMIENTO. May I yield to Commissioner Bernas.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, this morning we approved this provision:

> Until otherwise provided by law, the existing Presidential Committee on Human Rights shall continue to perform its functions and shall exercise the powers conferred on the Commission.

The understanding here is that upon the ratification of this Constitution, the present Presidential Committee on Human Rights becomes the Human Rights Commission and it begins to enjoy the status of the Human Rights Commission being created by the Constitution. It ceases to be a mere creation of the President, so that whatever Congress appropriates, it appropriates for the Human Rights Commission.

MR. RODRIGO. No, there is a distinction between the Human Rights Commission and the Presidential Committee on Human Rights. There is a basic difference; and this, to me, is very important. The Presidential Committee on Human Rights is backed up by the President, with all the powers of the President over the whole executive department behind it. On the other hand, the Commission on Human Rights which we plan to create by means of this provision in the Constitution is isolated from the President, independent of the President and does not have inherent powers of its own.

FR. BERNAS. What I am saying is that upon the ratification of this Constitution, that present Presidential Committee on Human Rights ceases to be dependent on the President and becomes independent by virtue of this provision. That is the intent of the paragraph we approved this morning.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. May I ask one clarification. According to Commissioner Bernas, upon the ratification of this Constitution the Presidential Committee on Human Rights will now become the present Commission on Human Rights.

FR. BERNAS. The composition, Madam President.

MR. REGALADO. But what this provision approved this morning states is: "Until otherwise provided by law, the existing Presidential Committee on Human Rights shall continue to perform its functions."

So there is a little gap from the time of the ratification of the Constitution to the time Congress shall have convened and have passed a law. What I would like to find out is what would be the committee's or the commission's status during that period between the ratification of the Constitution and until such a law has been passed by Congress.

FR. BERNAS. Precisely, what I am saying is that upon the ratification of this Constitution, the status of the present committee becomes constitutional although its composition, until it is otherwise provided by law, will continue to be the way it is.

MR. REGALADO. That would not be the way I would read it, Madam President, because the phrase "until otherwise provided by law" qualifies that succeeding clause "shall continue to perform its functions." I am just concerned with respect to this cutoff or starting point because, on the one hand, we have, as the Commissioner has said, the ratification of the Constitution and, on the other, this continuance of functions and powers of the present Presidential Committee on Human Rights until otherwise provided by Congress. So how do we reconcile this?

MR. RODRIGO. May I add something to what Commissioner Regalado said?

MR. DAVIDE. Point of information, Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. This is a point of information because Commissioner Regalado did not read the entire section. He stopped at merely "exercise its functions." We added – and this was my amendment – "and to exercise the functions conferred on the commission herein created." So it is very clear that the Bernas interpretation is the correct interpretation of that particular amendment which I introduced.

MR. REGALADO. Was that an amendment? When we voted this morning, this was the one I voted for, which ended with the word "Commission." This is the one furnished us by the committee, ending with the word "Commission" and cancelling "herein created."

MR. SARMIENTO. As read, Madam President, we added the words "herein created."

BISHOP BACANI. Madam President, I asked a question this morning which led to the clarification by the committee and the addition of the words "herein created."

MR. RODRIGO. Madam President, let us start from that premise – that the Presidential Committee on Human Rights, as now functioning, continues to function until otherwise provided by law. Suppose Congress, instead of abolishing the Presidential Committee on Human Rights, decides to create by legislation this Presidential Committee on Human Rights, instead of the commission provided for in the Constitution, because this Presidential Committee on Human Rights is more effective – it is backed by the President – unlike the proposed commission which is an island segregated from the President. It has to plead with fiscals; it has to plead with prosecuting officers; it has no power; it is a toothless commission. What happens then? Can we compel Congress to appropriate money for this if Congress says, "No, we do not want to appropriate money for that; that is a waste of money. We prefer the Presidential Committee on Human Rights"?

FR. BERNAS. Madam President, I take exception to the statement that even after the ratification of this Constitution the present Presidential Committee on Human Rights continues to be a presidential commission. It ceases to be a presidential commission. And it, therefore, becomes independent of the President.

MR. RODRIGO. But it says here that the President will appoint five commissioners. Does the Commissioner mean we automatically appoint, by means of this constitutional provision, the five commissioners? Are there five commissioners in the Presidential Committee on Human Rights now?

THE PRESIDENT. There are seven commissioners.

MR. RODRIGO. Madam President, it is provided in these provisions we are discussing that the President shall appoint the chairman and the four members of the commission. Before that appointment shall have been done, I do not suppose there will be any commission.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. The meaning of the phrase "until otherwise provided by law" has reference to the scope and extent of the powers of the present Presidential Committee on Human Rights. In other words, the moment the Constitution is ratified, the Commission on Human Rights has all the powers given to the presidential committee, together with the powers that are here, and what may be changed by law are the powers given to the presidential committee which are not found here.

MR. RODRIGO. At present, the Presidential Committee on Human Rights is under the President, supported by the President and backed by the powers of the President. So it can, with the backing of the President, call on any fiscal, prosecuting officer to cooperate. Does the Commissioner mean to say that when this Constitution takes effect, we shall say: "Well, you, in the Presidential Committee on Human Rights are now an isolated island."

FR. BERNAS. Yes, Madam President, this is the precise intention.

MR. RODRIGO. If this is the case, I want to speak *en contra,* Madam President.

FR. BERNAS. Madam President, the entire discussion or tenor we had when we were creating this commission was to make it independent of the President, precisely, so that it cannot be pressured by the President.

MR. RODRIGO. But this is ironic, because by making it independent of the President, we weaken instead of strengthen it. It is all right to make an office independent of the President, if we vest it with powers of its own; if it can act on its own. But what if its power is merely recommendatory, merely investigative, with no power to act on its own? It is stronger if backed by the President. We weaken that office if we segregate it from the President and make it an isolated island in an uncharted sea.

FR. BERNAS. I think it is very clear that the Commissioner's position is in complete disagreement with the position of the committee.

MR. RODRIGO. Yes. May I ask another question. Let us say the implementing legislation is enacted and Congress appropriates the money for the commission; but the Presidents says: "No, I do not want to appoint the chairman and the members of that commission, because I already have this presidential committee and I am very happy with it. It is doing very good work; it is very effective, and I think if this other commission is created, if I appoint the members, it will not be as effective as the committee that I have now. As a matter of fact, it will be a 'paper tiger.'"Can the President refuse to appoint?

FR. BERNAS. The fact is that once this is ratified, the Presidential Committee on Human Rights ceases to exist. So the President will have no authority to appoint anybody to the presidential committee because the office no longer exists. If the President appoints somebody to a nonexisting office, that is a violation of the Constitution.

MR. RODRIGO. No. The provision says that the President must appoint the chairman and the members of this commission that is being created by this constitutional provision. But suppose the President says: "No, I will not appoint anybody to the commission."

FR. BERNAS. It is a speculation, Madam President.

MR. RODRIGO. No, it is not a speculation because the President is happy with the present presidential committee. I think it is very profitable. Why waste money on a new commission which is untried and powerless? This came out during the interpellations. Can this commission investigate, and later on tell the fiscal, "You file a case"? The answer is: "No, it cannot compel." So what is the use of spending money on it? We will just be raising the hopes of our people and then frustrate them later on.

Another thing, Madam President. Even if Congress, let us say, appropriates the money, and the President appoints the five commissioners, we will have a commission with its office in Manila.

Human rights are violated all over the Philippines: in Mindanao, Visayas, Luzon, up to Batanes. How will the victims of human rights violation in faraway places communicate with the commission in Manila?

FR. BERNAS. It is obvious, Madam President, that Commissioner Rodrigo wants to speak *en contra*. I think the matter he is raising was already raised here during the period of amendments, and it is just a question of voting on Second Reading.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. I am a member of the committee but when I voted for the last paragraph of Section 1, which reads "Until otherwise provided by law, the existing Presidential Committee on Human Rights shall continue to perform its functions. . .," my impression was that the Presidential Committee on Human Rights will continue to perform its function as a Presidential Committee on Human Rights and will not automatically become the Commission on Human Rights envisioned in this article. That was my understanding.

In other words, the Presidential Committee on Human Rights will continue to function until this Commission on Human Rights is created. Following the provisions we have spelled out in this article, it does not automatically become the Commission on Human Rights.

FR. BERNAS. Madam President, I think it is quite obvious that there are varying interpretations of the provisions by this body. So, perhaps, a motion for reconsideration would be in order.

SUSPENSION OF SESSION

THE PRESIDENT. May we suspend the session for a few minutes.

It was 4:18 p.m.

RESUMPTION OF SESSION

At 4:37 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Madam President, I ask that Commissioner Rigos be recognized.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, I move for a reconsideration of the approval of Section 1(3) of the Article on the Commission on Human Rights.

VOTING

THE PRESIDENT. As many as are in favor of the motion of Commissioner Rigos to reconsider the approval of Section 1(3), which was the section involved just before the suspension of the session, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 31 votes in favor and none against; the motion for reconsideration is approved.

MR. RAMA. Madam President, I ask that Commissioner Regalado be recognized to present the amendment.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Thank you, Madam President. In connection with the last paragraph of Section 1(3), I respectfully submit this amendment, coauthored by Commissioners Rodrigo, de los Reyes and Rigos, to read as follows: "Until THIS COMMISSION IS CONSTITUTED, the existing Presidential Committee on Human Rights shall continue to EXERCISE its PRESENT functions and powers."

THE PRESIDENT. What does the committee say?

MR. SARMIENTO. We have no objection, Madam President.

MR. NOLLEDO. Clarificatory questions, Madam President.

THE PRESIDENT. The Commissioner will please proceed.

MR. NOLLEDO. When we use the phrase "Until THIS COMMISSION IS CONSTITUTED," does this mean that Congress is mandated to create the commission within a reasonable time?

MR. REGALADO. Yes, Madam President.

MR. NOLLEDO. Thank you.

MR. DE CASTRO. Madam President, point of clarification.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Madam President, the first statement of Commissioner Regalado was "Until THIS COMMISSION IS CONSTITUTED." In his answer to the Honorable Nolledo, he said, "Until it is created by Congress."

Section 1 clearly states that the commission shall be created. So Section 1 already created it.

MR. REGALADO. I did not mention the word "created." I just gave the answer yes, because Commissioner Nolledo was asking whether by the phrase "Until THIS COMMISSION IS CONSTITUTED," Congress is mandated to create the commission within a reasonable time. My answer was yes. I did not use the word "created."

What we mean here by "CONSTITUTED" is when Congress passes the enabling law which includes, among others, the statement about the qualifications, as well as the ratification and the conjoint action of the President in appointing the Commissioners therein, from that moment this proposed commission is constituted.

MR. DE CASTRO. So the Commissioner means that the word "constituted" here is different from the word "created" as used in Section 1.

MR. REGALADO. Yes, Madam President.

MR. DE CASTRO. Thank you.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Does the word "mandate" refer to the first Congress or could it be to subsequent Congresses?

FR. BERNAS. It certainly refers to the first Congress, but if the first Congress does nothing about it, it is a continuing mandate.

MR. TINGSON. That is what I wanted to find out. It is a continuing mandate. But the first Congress does not need to do it, if it does not want to.

FR. BERNAS. We cannot compel Congress, Madam President.

MR. TINGSON. Thank you, Madam President.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. May we ask some clarificatory questions of the distinguished Commissioner Regalado.

When the Commissioner says that the commission should be constituted, I understand he has in mind the organization of this commission by virtue of the appointment by the President of its membership. Am I correct, Madam President?

MR. REGALADO. Yes, Madam President, consequent to the enabling legislative act.

MR. SUAREZ. Thank you. From that time on, it will be this commission that will be operative.

MR. REGALADO. That is right, Madam President.

MR. SUAREZ. And that means the automatic abolition of what is now known as the Presidential Committee on Human Rights.

MR. REGALADO. The Presidential Committee on Human Rights will thereby become *functus officio.*

MR. SUAREZ. Thank you.

What would happen to the cases pending before the committee upon its abolition?

MR. REGALADO. Congress, I suppose, should make the corresponding provisions with respect to pending cases, as well as with respect to the disposition of the personnel, the transfer of equipments and assets, and the accounting of undisbursed funds which is standard, after all, in any congressional act whenever a new office is created in lieu of a preexisting one.

MR. SUAREZ. And what the Commissioner is declaring now can be read into the record.

MR. REGALADO. Yes, Madam President.

MR. SUAREZ. What will happen to the personnel and officers of the present committee, Madam President?

MR. REGALADO. As I have stated, as is standard in most congressional acts of this nature, there are provisions as to whether these personnel, those who are qualified, will be given preferential appointment to the new commission or will be considered automatically absorbed therein.

MR. SUAREZ. That could also be read into the record for future reference by Congress.

MR. REGALADO. Yes, Madam President, for the guidance of the Members of Congress when they work on this.

MR. SUAREZ. Thank you, Madam President.

MR. REGALADO. Thank you.

VOTING

THE PRESIDENT. As many as are in favor of this proposed amendment read by Commissioner Regalado, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 35 votes in favor and none against; the amendment is approved.

MR. RAMA. Madam President, in view of the fact that we do not have the clean draft of the Article on the Commission on Human Rights, I move for deferment of the vote on Second Reading until this clean text shall have been distributed among the Members.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, I ask that Commissioner Bengzon be recognized.

THE PRESIDENT. Commissioner Bengzon is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NOS. 496 AND 533

(Article on National Economy and Patrimony
and Provision on Ancestral Lands)
Continuation

PERIOD OF AMENDMENTS

MR. BENGZON. Madam President, in line with the agreement of this Commission during the caucus, I move that we continue the consideration on Second Reading of the Article on National Economy and Patrimony.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

We request the members of the Committee on the National Economy and Patrimony to please occupy the front table.

MR. BENGZON. Copies of the Davide amendment have already been distributed, Madam President.

MR. MONSOD. Madam President, just for a clarification. What we are considering is the committee report on which Commissioner Davide has an amendment.

MR. VILLEGAS. Yes, Madam President.

THE PRESIDENT. May we request Commissioner Davide to propose his amendment.

MR. DAVIDE. This proposed amendment is on Section 1 of Committee Report No. 32. I seek to reformulate this section to simply read as follows: "The State, SUBJECT TO the provisions of this Constitution AND NATIONAL DEVELOPMENT POLICIES AND PROGRAMS, shall guarantee the rights of CULTURAL OR TRIBAL communities to their ancestral lands to ensure their economic, social and CULTURAL WELL-BEING. WHENEVER EXPEDIENT, CONGRESS SHALL PROVIDE FOR THE APPLICABILITY OF CUSTOMARY LAWS GOVERNING PROPERTY RIGHTS OR RELATIONS in determining the ownership and extent of the ancestral domain."

THE PRESIDENT. What does the committee say?

MR. VILLEGAS. Commissioner Bennagen will react.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. May we know from the proponent why he wants to reformulate Section 1 this way.

MR. DAVIDE. The reason, Madam President, is: First, with respect to the so-called ancestral lands of tribal or cultural communities, we have to consider the provisions of this Constitution and national developmental policies and programs of the government. Second, insofar as the application of the customary laws governing property rights or relations in determining the ownership and extent of the ancestral domain is concerned, it is respectfully submitted that that particular matter must be submitted to Congress. I understand that the idea of Commissioner Bennagen is for the possibility of the codification of these customary laws. So before these are codified, we cannot now mandate that the same must immediately be applicable. We leave it to Congress to determine what are these customary laws to be codified and how these customary laws may be made applicable in determining the extent of the ancestral domain and the ownership thereof in relation to whatever may have been codified earlier. So, in short, let us not put the cart ahead of the horse.

MR. BENNAGEN. Is that the interpretation of the second sentence?

MR. DAVIDE. Yes, Madam President.

MR. BENNAGEN. May we have the second sentence again, Madam President.

MR. DAVIDE. "WHENEVER EXPEDIENT, CONGRESS SHALL PROVIDE FOR THE APPLICABILITY OF CUSTOMARY LAWS GOVERNING PROPERTY RIGHTS OR RELATIONS in determining the ownership and extent of the ancestral domain."

MR. BENNAGEN. Originally, I thought we agreed that we will delete "WHENEVER EXPEDIENT" and include the concept or idea of codification.

MR. DAVIDE. I can agree to striking it out, but in the matter of the mandate on codification, we feel that the proper place for that would be in the Article on General Provisions. So the proposed amendment would complement, if there is such a proposal for codification in the General Provisions. The mandate here will remain: CONGRESS SHALL PROVIDE FOR THE APPLICABILITY OF CUSTOMARY LAWS, meaning, customary laws which may have earlier been codified.

MR. BENNAGEN. If we accept the amendment, will it be on the understanding that that provision for codification should be included in the Article on General Provisions?

MR. DAVIDE. I hope the two of us could work together to remind ourselves, at the time we take up the Article on General Provisions, that a provision be inserted in said article regarding codification of the customary laws, which I believe would be the proper place.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Thank you, Madam President. May I seek some clarifications from either Commissioner Bennagen or Commissioner Davide regarding this phrase "CONGRESS SHALL PROVIDE FOR THE APPLICABILITY OF CUSTOMARY LAWS GOVERNING PROPERTY RIGHTS OR RELATIONS in determining the ownership and extent of the ancestral domain," because ordinarily it is the law on ownership and the extent thereof which determine the property rights or relations arising therefrom. On the other hand, in this proposed amendment the phraseology is that it is the property rights or relations which shall be used as the basis in determining the ownership and extent of the ancestral domain. I assume there must be a certain difference in the customary laws and our regular civil laws on property.

MR. DAVIDE. That is exactly the reason, Madam President, why we will leave it to Congress to make the necessary exception to the general law on property relations.

MR. REGALADO. I was thinking if Commissioner Bennagen could give us an example of such a customary law wherein it is the property rights and relations that determine the ownership and the extent of that ownership, unlike the basic fundamental rule that it is the ownership and the extent of ownership which determine the property rights and relations arising therefrom and consequent thereto. Perhaps, these customary laws may have a different provision or thrust so that we could make the corresponding suggestions also by way of an amendment.

MR. DAVIDE. That is exactly my own perception.

MR. REGALADO. Can Commissioner Bennagen explain the concept further.

MR. BENNAGEN. Let me put it this way.

There is a range of customary laws governing certain types of ownership. There would be ownership based on individuals, on clan or lineage, or on community. And the thinking expressed in the consultation is that this should be codified and should be recognized in relation to existing national laws. That is essentially the concept.

MR. REGALADO. The Commissioner will recall that when we had a public hearing at the Asian Institute of Tourism, he, as well as some of the speakers therein, made mention of a work being conducted by Professor Fernandez.

MR. BENNAGEN. Yes.

MR. REGALADO. I was wondering if perhaps we could have even a rough draft or a prĕcis of that work for the benefit of the Commissioners, so we will have an idea of what these customary laws are that we are voting on and which we are using as a basis in the matter of ancestral lands. Incidentally, this is also mentioned in the Article on Social Justice, Article on National Economy and Patrimony and in the Article on General Provisions. We really have just a rough and hazy approach or knowledge of the customary laws referred to.

MR. BENNAGEN. Unfortunately, the studies are still going on. However, one way to know these customary laws would be in terms of genealogies. These are stories told by succeeding generations in terms of how they have cultivated certain areas, the improvements made therein and other things like those. These were usually transmitted orally from one generation to the next generation.

MR. REGALADO. There was a certain UP lady professor who promised to send us a summary to be used just for a working knowledge of the other Commissioners, and which we intended to disseminate.

MR. BENNAGEN. Yes, an idea of that would be in the paper circulated to the body which comes from the *Philippine Law Journal.* It is taken from the article entitled "The Interface Between National Land Law and Kalinga Land Law" by Ma. Lourdes Aranal-Sereno and Roan Libarios. That would give us an idea of the kind of ownership rights that we are referring to in this section.

MR. REGALADO. I assume they were also distributed to the Commissioners.

MR. BENNAGEN. Yes.

MR. REGALADO. So that at least we will have even just a working knowledge.

MR. BENNAGEN. Yes.

MR. REGALADO. Madam President, this is regarding the phrase "cultural or tribal communities" which I addressed to Commissioner Davide. We will notice that this phrase was changed to the words "indigenous communities" as indicated in Section 6 of the Article on Social Justice.

Would the Commissioner care to comment on whether we should use the same phraseology or is there a difference in the intent, in the specification here, this time of cultural and tribal communities, although in the Article on Social Justice we used "indigenous communities" to refer to ancestral lands?

MR. DAVIDE. In the 1973 Constitution, these tribal groups were described as cultural communities, not as indigenous communities, the idea being that we should not really downgrade them.

MR. BENNAGEN. That is why the term "minorities" was stricken off the record.

MR. DAVIDE. Precisely. We changed it to "COMMUNITIES."

MR. BENNAGEN. However, we added the word "INDIGENOUS" to refer to their being native-born in the Philippines, in contrast to other cultural communities who may have different ethnic origins.

MR. REGALADO. So, just to align this proposed amendment of Commissioner Davide with Section 6 of the Article on Social Justice, will the committee consider the insertion of the words "INDIGENOUS CULTURAL COMMUNITIES," eliminating the phrase "or tribal" because this phrase "or tribal" appears to mean a very small group?

MR. BENNAGEN. Yes.

MR. REGALADO. So, the amendment will be "INDIGENOUS CULTURAL COMMUNITIES" which would be acceptable to the body.

MR. BENNAGEN. It is already accepted by certain groups, but the word "tribal" is some kind of an "exonym." It is imposed by people from the outside. Usually it is in reference to corporate groups like American-Indians. So, for consistency, we accept "INDIGENOUS CULTURAL COMMUNITIES."

MR. DAVIDE. So, we delete the words "or tribal."

MR. BENNAGEN. But the obvious reference here would be those groups that have retained a high degree of continuity from preconquest culture, and especially those of the two autonomous regions, because we have to make provisions for their ancestral lands. The assumption is that this will be taken into account.

MR. DAVIDE. As a matter of fact, this particular section that has specific reference to the indigenous cultural communities is principally outside the autonomous regions.

MR. BENNAGEN. Yes. That should also be the intent of the codification provision in the Article on General Provisions.

MR. REGALADO. So, that is the phraseology we will also use here.

MR. DAVIDE. We accept the proposed amendment. So, before the word "cultural" insert the word "INDIGENOUS," and then we delete the words "or tribal."

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I ask a question of Commissioner Davide.

MR. DAVIDE. Gladly.

BISHOP BACANI. In Commissioner Davide's formulation of the first sentence, he says: "The State, SUBJECT TO THE provisions of this Constitution AND NATIONAL DEVELOPMENT AND PROGRAMS shall guarantee the rights of cultural or tribal communities to their ancestral lands to insure their economic, social and cultural well-being." There are at least two concepts here which receive different weights very often. They are the concepts of national development policies and programs, and the rights of cultural or tribal communities to their ancestral lands, et cetera. I would like to ask: When the Commissioner proposed this amendment, which was the controlling concept? I ask this because sometimes the rights of cultural minorities are precisely transgressed in the interest of national development policies and programs. Hence, I would like to know which is the controlling concept here. Is it the rights of indigenous cultural communities to their ancestral lands or is it national development policies and programs?

MR. DAVIDE. It is not really a question of which is primary or which is more paramount. The concept introduced here is really the balancing of interests. That is what we seek to attain. We have to balance the interests taking into account the specific needs and the specific interests also of these cultural communities in like manner that we did so in the autonomous regions.

MR. BENNAGEN. Yes.

MR. DAVIDE. Regarding the formation of the autonomous regions, the legislative powers vested on the autonomous regions will always be subject to the provisions of the Constitution and national law and the developmental goals in order to achieve a balancing of interests.

At this juncture, the President relinquished the Chair to the Honorable Rustico F. de los Reyes, Jr.

BISHOP BACANI. Is it understood that in the balancing of these different interests, the cultural communities will be consulted?

MR. DAVIDE. Certainly, that is the effect.

BISHOP BACANI. Thank you very much.

MR. CALDERON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Assistant Floor Leader is recognized.

MR. CALDERON. I would like to ask some questions of Commissioner Bennagen in line with the questions asked by Commissioner Bacani concerning ancestral lands and codification of laws. Shall they prevail over the rights granted under the regalian doctrine?

MR. BENNAGEN. The idea is for this matter to be incorporated as part of the national law and, therefore, they should be taken in those terms. Again, when there is a conflict between this and the national law, the general principle is that the national law shall prevail, but there should always be the effort to balance the interest as provided for in the national law and the interest as provided for in the customary law.

MR. CALDERON. To be specific, shall mining rights granted by the government under the regalian doctrine be recognized by the tribal communities?

MR. BENNAGEN. Yes, as long as there is a just share and it is subject to due process, because what has happened in the past is that the rights of the indigenous communities are not respected in terms of their share of the benefits derived from extraction of resources including minerals. It is as if we are dealing with them as private persons and that, therefore, they should benefit from this.

MR. CALDERON. I see; I am satisfied.

Thank you.

MR. RAMA. May we know the thinking of the committee regarding the amendment so we can vote?

THE PRESIDING OFFICER (Mr. de los Reyes). The committee will reply to the question of the Floor Leader.

MR. VILLEGAS. The committee accepts the amendment.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Maambong is recognized.

MR. MAAMBONG. The second sentence of the accepted amendment says: "Congress shall provide. . ."

MR. VILLEGAS. "Congress may provide."

MR. MAAMBONG. What I have here is "shall." I was about to ask the committee, since it has accepted the amendment of Commissioner Davide, if we could change this to "MAY."

MR. VILLEGAS. Yes, the original is "may."

MR. MAAMBONG. That is why I am asking the committee, considering that I heard Commissioner Davide say "shall."

MR. BENNAGEN. My understanding is that the word "shall" will be used.

MR. MAAMBONG. That is precisely why I am proposing an amendment to change the word "shall" to "MAY." May I hear from Commissioner Davide?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. Yes. The original proposal was really "may." Commissioner Bennagen, however, requested that it should be "shall." In the light of the agreement that we shall introduce in the Article on General Provisions a provision regarding the codification of these customary laws, and necessarily the act of the Congress will have to follow after the codification of the customary laws, the word "may" shall prevail.

MR. BENNAGEN. With that explanation, we accept the reversal to the word "may."

MR. DAVIDE. May I also propose to change the word "guarantee," as proposed by Commissioner Concepcion, to the word "PROTECT."

THE PRESIDING OFFICER (Mr. de los Reyes). What does the committee say?

MR. VILLEGAS. "Shall PROTECT the rights of indigenous cultural communities."

MR. DAVIDE. May we know the thinking of the committee on the change of the word "guarantee" to "PROTECT" as recommended by Commissioner Concepcion?

MR. VILLEGAS. It is accepted.

MR. DAVIDE. The committee has accepted. So, it will now read in full as follows: "The State, SUBJECT TO THE provisions of this Constitution and NATIONAL DEVELOPMENT POLICIES AND PROGRAMS, shall PROTECT the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being. CONGRESS MAY PROVIDE FOR THE APPLICABILITY OF customary laws governing property rights or relations in determining the ownership and extent of the ancestral domain."

THE PRESIDING OFFICER (Mr. de los Reyes). What is the reaction of the committee to the amendment as read?

MR. VILLEGAS. We accept it, Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Maambong is recognized.

MR. MAAMBONG. Before we take a vote on this, I just want some clarification on the words "indigenous communities." Just how many indigenous communities do we have in the Philippines?

MR. BENNAGEN. It depends on how fine the distinctions that the Commissioner wants to make. But we still go by the old listing of CNI, PANAMIN and also by anthropologists Fox and Florry. What else? It also includes the Manahan report and all others. In other words, there is already an increasing consensus as to the indigenous communities referred to whenever we speak of indigenous communities.

MR. MAAMBONG. So, more or less, how many do we have?

MR. BENNAGEN. There are about 100 to 130, sometimes more, depending on how fine the distinctions are.

MR. MAAMBONG. And this is the number of which we expect Congress to provide for laws governing property rights or relations? Is that it?

MR. BENNAGEN. Actually, the number of groups is misleading in terms of the property concepts because there is a kind of similarity that runs through all these various ethnic groups.

MR. MAAMBONG. In other words, as far as these 100 or so indigenous communities are concerned, is the Commissioner saying that Congress could probably make a general law for all of them which runs through the same fabric of provisions?

MR. BENNAGEN. I would say so. Yes. There would be certain variations. We have the Negrito groups, on the one hand, the Mangyan groups, on the other, and those groups in Mindanao that are outside of those two autonomous regions.

MR. MAAMBONG. Let us clarify that.

The Commissioner is saying that these laws on property could be generalized in some areas of the Philippines like in Mindanao. This group of indigenous communities and some in Luzon could have a grouping of general laws which cover their property relations.

MR. BENNAGEN. The Commissioner is right.

MR. MAAMBONG. If my memory serves me right, there was a book published by Professor Perfecto Fernandez on customary laws of the Philippines. Would that be a good starting point for the formulation of these laws?

MR. BENNAGEN. Yes, as a starting point. However, other starting points could be seen in a listing of works. I thought I provided the Members of the Commission copies of that. Maybe I failed to do that, but my understanding is that these existing materials would already provide viable starting points for this kind of work that we hope Congress will pick up from here as soon as it is duly constituted.

MR. MAAMBONG. Yes, the Commissioner did furnish us some materials regarding the concept of property as far as the Cordillera area is concerned; but as the Commissioner said, the book, if I am correctly quoting the name of Professor Perfecto Fernandez, could provide a good starting point for Congress to make this kind of laws.

MR. BENNAGEN. Incidentally, that too, would include even ethnic laws covering also lowland Filipinos.

MR. MAAMBONG. Thank you. I am satisfied.

THE PRESIDING OFFICER (Mr. de los Reyes). Are we now ready to vote?

MR. NATIVIDAD. Mr. Presiding Officer, just one question.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Natividad is recognized.

MR. NATIVIDAD. Just one question. I want to clear this section protecting ancestral lands. How does this affect the Torrens title and other prior rights?

MR. BENNAGEN. I think that was also discussed in the committee hearings and we did say that in cases where due process is clearly established in terms of prior rights, these two have to be respected.

MR. NATIVIDAD. The other point is: How vast is this ancestral land? Is it true that parts of Baguio City are considered as ancestral lands?

MR. BENNAGEN. They could be regarded as such. If the Commissioner still recalls, in one of the publications that I provided the Commissioners, the parts could be considered as ancestral domain in relation to the whole population of Cordillera but not in relation to certain individuals or certain groups.

MR. NATIVIDAD. The Commissioner means that the whole Baguio City is considered as ancestral land?

MR. BENNAGEN. Yes, in the sense that it belongs to Cordillera or in the same manner that Filipinos can speak of the Philippine archipelago as ancestral land, but not in terms of the right of a particular person or particular group to exploit, utilize, or sell it.

MR. NATIVIDAD. But it is clear that the prior rights will be respected.

MR. BENNAGEN. Definitely.

MR. NATIVIDAD. Thank you.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

I am also a member of that committee, and I support this section. However, I think there is need to clarify some terms being used in this particular section.

For example, we are talking of "ancestral lands"; on line 1 and on line 2, we are talking in terms of "ancestral domain." Is there any substantial difference between "lands" and "domain"?

MR. BENNAGEN. I tried to go into the deliberations on the 1973 Constitution, following the proposal of Atty. William Claver and I did notice that in the deliberations, distinctions were made between ancestral land and ancestral domain, as well as in the existing literature even outside of the Philippines. Ancestral lands would be more specific in relation to how people use, exploit and sell; whereas, ancestral domain would include a broader area, including those that are not yet actually being occupied but which generally belong to what we call a cultural region. So, deep forests that are not yet in effective use are part of the ancestral domain, but not yet a part of the ancestral land.

MR. SUAREZ. That is a good distinction but under line 1, what is only sought to be protected by the State would be the lands and not the domain. Is my understanding correct?

MR. BENNAGEN. That is why it is important to have that provision in the Article on General Provisions to codify the extent of the ancestral domain.

MR. SUAREZ. So, we are clear on the fact that the State is mandated to protect only the ancestral lands but not the ancestral domain.

MR. BENNAGEN. Pending the resolution of the issue, because that is also important in relation to the definition of "autonomous region" when all these will have to be defined territory.

MR. SUAREZ. So, the moment the extent of the ancestral domain is determined by Congress, then it already deserves state protection.

MR. BENNAGEN. Yes.

MR. SUAREZ. In terms of codifying the customary laws on the part of Congress, is my understanding correct in that regard? Is Congress under obligation to codify the customary laws?

MR. BENNAGEN. That is my understanding.

MR. SUAREZ. Therefore, before the codification of these customary laws by Congress, the State may not apply these customary laws to property relations or rights?

MR. BENNAGEN. My understanding is that, even without the action of Congress, the State shall already protect. But the final definition of the ancestral domain shall wait for the action of Congress in respect to codification. So once it is codified, it will be included as part of national law.

MR. SUAREZ. When we speak of customary laws governing property rights or relations in determining the ownership and extent of the ancestral domain, are we thinking in terms of the tribal ownership or community ownership or of private ownership within the ancestral lands or ancestral domain?

MR. BENNAGEN. The concept of customary laws is that it is considered as ownership by private individuals, clans and even communities.

MR. SUAREZ. So, there will be two aspects to this situation. This means that the State will set aside the ancestral domain and there is a separate law for that. Within the ancestral domain it could accept more specific ownership in terms of individuals within the ancestral lands.

MR. BENNAGEN. Individuals and groups within the ancestral domain.

MR. SUAREZ. That is right and this will be governed by the customary laws. I have a last question with respect to the first sentence and this is a little more serious because it will affect the national development policies and programs.

Let us take a particular situation where there is need to develop a hydroelectric project which might violate the property rights on ancestral domain. Since under this section we are saying that it must be subject to the provision of this Constitution and national development policies and programs, in a situation like that which will prevail?

MR. BENNAGEN. I think we take the cue from the discussion of the provision on autonomous regions when we say that given all these considerations, we should do a lot of systematic consultation to balance local regional needs, as well as national plans.

MR. SUAREZ. So, we will apply the same rules and principles and come up with a decision which may favor national development programs or the continued existence of the tribal communities.

MR. BENNAGEN. Yes. The assumption is that the national plan takes into account the requirements of the region after thorough consultation. That is why we insisted that in the national planning there should be systematic consultation with other groups including those from the indigenous communities.

MR. SUAREZ. If the consultations would result in a stalemate of some sort, how does the Commissioner imagine that to be resolved? Should it be resolved in favor of national development or in favor of the survival of tribal communities?

MR. BENNAGEN. At this point, learning from the lessons of the Marcos years, I do not think of that possibility, but in case of a worse case scenario, I would imagine that the harm done to the local communities and to the national interest should be thoroughly investigated and the decision should be in relation to the minimization of the social cause to both the indigenous communities and national interest.

MR. SUAREZ. Thank you.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. The body is now ready to vote.

THE PRESIDING OFFICER (Mr. de los Reyes). Will the committee please read the amendment again.

MR. VILLEGAS. "The State SUBJECT TO THE provisions OF THIS CONSTITUTION AND NATIONAL DEVELOPMENT POLICIES AND PROGRAMS, shall PROTECT the rights of indigenous CULTURAL communities to their ancestral lands TO ensure their economic, social AND CULTURAL well-being. CONGRESS MAY PROVIDE FOR THE APPLICABILITY OF customary laws governing property rights OR RELATIONS in determining the ownership and extent of the ancestral domain."

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection to the amendment as read?

MR. RAMA. Commissioner Padilla would like to be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Padilla is recognized.

MR. PADILLA. Mr. Presiding Officer, with regard to the second sentence which says, "customary laws governing property rights or relations" and the idea is that the Congress may be required to codify, I notice that in the Article on Local Governments, particularly Section 18, referring to additional powers of autonomous regions itemized under nine subheadings, mention is made of ancestral home as indicated in item (3); personal family and property relations in item (4); preservation and development of the cultural heritage in item (8) and to which I interposed my objections before. Should not the second sentence be more applicable under the Article on Local Governments, rather than under the Article on National Economy and Patrimony?

THE PRESIDING OFFICER (Mr. de los Reyes). May the committee reply please?

MR. BENNAGEN. Commissioner Padilla, the provision here in the Article on National Economy and Patrimony is intended primarily for those outside and within the autonomous regions.

MR. PADILLA. Section 18 of the Article on Local Governments refers specifically to autonomous regions with legislative powers.

MR. VILLEGAS. We are thinking that this specific provision will apply to indigenous cultural communities outside of the autonomous regions, as well as those within the autonomous region. And we were thinking actually of putting it immediately after the provision in the Article on National Economy and Patrimony which talks about the disposition of land. And so, we think this is very appropriate to be included in the Article on National Economy and Patrimony because it actually talks about how certain lands will be disposed of.

MR. PADILLA. I am not referring to the first sentence of the proposed amendment regarding ancestral lands, but I am referring to the second sentence regarding customary laws governing property rights or relations.

MR. VILLEGAS. That is why we are referring to property rights.

MR. PADILLA. Should that not be more appropriate in the Article on Local Governments?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. May I add some thoughts on this?

The provision on the autonomous regions is very specific. The intention here is to make this applicable even to the indigenous communities outside of the autonomous regions. And this is proper under the Article on National Economy and Patrimony for the reason that it would involve the extent and the ownership of ancestral domain. It involves land. So, it cannot be under the portion of autonomous regions in the Article on Local Governments because it may cover cultural communities outside of the autonomous regions. There is no other place for this but here.

MR. PADILLA. I believe it is more proper to place the provision under the Article on Local Governments. We provide for autonomous regions to Muslim Mindanao and Cordillera, then we should also recognize the rights of other indigenous cultural or tribal communities.

MR. DAVIDE. Mr. Presiding Officer, it cannot be placed under the Article on Local Governments for two reasons: (1) the provision on autonomous regions is on local governments. We do not speak here of local autonomy or local government for these tribal communities; (2) if we place the matter there, it would appear that the autonomous regions will cover other tribal areas outside of the areas to which the autonomous regions are confined.

MR. BENNAGEN. May I add also another? It would also assume that all other indigenous communities belong to clearly delineated local political units which is not necessarily the case. Sometimes they struggle for more than one political unit.

MR. PADILLA. No, I am not saying that these tribal minorities are within the two so-called autonomous regions, but what I am saying is that the same ideas of ancestral domain, property relations, cultural heritage are all mentioned in the Article on Local Governments.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. Yes, that is correct, because these are the powers conceded to the autonomous regional legislative departments. Section 18 of the Article on Local Governments enumerates precisely the powers of the local autonomous regions and, therefore, in respect to the matter of customary laws on the ancestral lands or domains within the autonomous regions, these matters would be within the legislative authority of the autonomous regions. If we place this matter now as a concept within local autonomy, it may be made to appear that the autonomous regions will have jurisdiction over ancestral domains not within the autonomous regions.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. The body is now ready to vote with those clarifications.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the comment of Commissioner Padilla an objection or just a suggestion?

MR. RAMA. I understand it is just a suggestion.

MR. PADILLA. It is in the nature of an observation, a suggestion and, therefore, an opposition.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes). In view of the suggestion which is actually an opposition, we will vote on the issue.

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(A Member raised his hand.)*

MR. PADILLA. Mr. Presiding Officer, I am only against the second sentence, as inserted.

THE PRESIDING OFFICER (Mr. de los Reyes). As many as are abstaining, please raise their hand. *(No Member raised his hand.)*

The results show 31 votes in favor and none against; the amended section is approved.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. There are no more registered speakers; may I ask that Commissioner Bengzon be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). The chairman of the Steering Committee is recognized.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bengzon is recognized.

MR. BENGZON. There is a suggestion here, and I would like to request that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

With the indulgence of my fellow colleagues, may we venture the suggestion that we be given the opportunity to present some proposals, which may not be substantive in character, before the committee chaired by Commissioner Villegas in order that we may be able to thresh out on the committee level some proposals which we feel may be supportive of and perhaps clarificatory of the provisions which have already been approved by the Commission considering that there are already about 21 or 22 sections approved in the Article on National Economy and Patrimony. I hope the committee will be good enough to continue extending its liberality by sitting with us at the end of the session to spend the whole night together ironing out these problems.

MR. BENNAGEN. I object to the reference of spending the whole night.

MR. SUAREZ. At any rate, the idea is to get it over with sometime tonight and maybe the committee can sleep over it and we can call anew discussion on the Article on National Economy and Patrimony by tomorrow morning.

THE PRESIDING OFFICER (Mr. de los Reyes). What is the reaction of the committee?

MR. VILLEGAS. We would be happy to meet with the committee. In fact, if we can adjourn right now, we do not have to work the whole night.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bengzon is recognized.

MR. BENGZON. There is just one loose thread hanging in the Article on Accountability of Public Officers and I would like to get this out of the way. May I suggest that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. We circulated to the Commissioners a memorandum that was unanimously endorsed by the members of the committee, except for one member who is absent. In this memorandum, we suggested the deletion of a phrase which we consider redundant in the context of the intent of the committee. We wanted to ask the body for any comment it may have on it because we feel we do not need to reopen the article if the body agrees with us that it is not a substantial change, but a change to reflect the intention of the body and the committee on this matter.

THE PRESIDING OFFICER (Mr. de los Reyes). On what article is that, Commissioner Monsod?

MR. MONSOD. It is on the Article on Accountability of Public Officers which was circulated a couple of days ago.

On Section 13, lines 7 and 8, we propose to delete the phrase "or to prosecute offenses in connection therewith." The committee considers this phrase redundant with its intent on the recovery of property illegally acquired. The action contemplated by the committee is a civil action. However, since jurisprudence considers such action for recovery as partaking of a criminal action, we believe that it is not necessary to mention "or to prosecute offenses in connection therewith." Hence, we ask the body if there is any objection to delete that phrase.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod, what is the phrase sought to be deleted?

MR. MONSOD. The phrase "or to prosecute offenses in connection therewith."

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. de los Reyes). The session is suspended.

It was 5:36 p.m.

RESUMPTION OF SESSION

At 5:40 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

Commissioner Monsod is recognized.

MR. MONSOD. May we ask Commissioner Davide, the proponent of some of these amendments, on this article?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Mr. Presiding Officer.

After deeper reflection on the consequences of the amendments which I introduced and which are now sought to be deleted, and taking into account the massive consensus of opinions on the part of the committee which is now seeking for its reconsideration, I would have no objection to it. However, there is a point to be taken up and I understand that Commissioner Regalado has also a point to take up on this.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Regalado is recognized.

MR. REGALADO. Thank you, Mr. Presiding Officer.

I move for the deletion of the phrase "co-principals, accomplices or accessories," because what is contemplated in that amendment is a civil action. The phrase "co-principals, accomplices and accessories" is proper only in a criminal action. So, I have asked the committee to delete those words.

THE PRESIDING OFFICER (Mr. de los Reyes). So how will the section now read?

MR. MONSOD. The section as amended by deletion will now read: "Sec. 13. The right of the State to recover properties unlawfully acquired by public officials or employees shall not be barred by prescription, laches or estoppel."

THE PRESIDING OFFICER (Mr. de los Reyes). So for the information of the Members of the Commission, what phrases are deleted?

MR. MONSOD. The phrases that are deleted are as follows: "or to prosecute offenses in connection therewith" and "or their co-principals, accomplices or accessories."

THE PRESIDING OFFICER (Mr. de los Reyes). So, in effect, the Commissioner is asking for a reconsideration.

MR. MONSOD. It has been suggested that that would be appropriate in order to make sure that this is properly regularized.

RECONSIDERATION OF APPROVAL OF PROPOSED RESOLUTION NO. 456
(Article on the Accountability of Public Officers)

THE PRESIDING OFFICER (Mr. de los Reyes). As many as are in favor of reconsidering Section 13, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 27 votes in favor and 1 against; the reconsideration is approved.

Commissioner Monsod is again recognized.

MR. MONSOD. I propose that we delete the phrases: "or their co-principals, accomplices or accessories" and "or to prosecute offenses in connection therewith." So, the entire article will now read: "The right of the State to recover properties unlawfully acquired by public officials or employees shall not be barred by prescription, laches or estoppel."

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection to the amendment?

Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MR. SUAREZ. I just would like to request the proponent to make it very clear that the elimination of the phrases "co-principals, accomplices, or accessories" and "or to prosecute offenses in connection therewith," shall not preclude those who may have been connected with the commission of the offense even if they are not public officials or employees. They still can be part of the prosecution of the crime committed.

THE PRESIDING OFFICER (Mr. de los .Reyes). What is the reaction of Commissioner Monsod?

MR. MONSOD. That is correct.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada is recognized.

MS. QUESADA. This is just for clarification on the parliamentary procedure. I am not familiar with the rules on this particular situation wherein we approved the Article on Accountability of Public Officers on Second Reading which we have already approved before.

THE PRESIDING OFFICER (Mr. de los Reyes). There was a reconsideration to correct an error which the Chair believed to be substantial. It was then put to a vote with 27 votes in favor of the reconsideration of the section, and one voted against. Commissioner Monsod then read the section as amended. Hence, we will now vote on that particular section, as amended.

MS. QUESADA. So, the parliamentary situation is that we are on the Third Reading then?

THE PRESIDING OFFICER (Mr. de los Reyes). No, we are only on Second Reading.

Is there any objection to the amendment of Commissioner Monsod?

Commissioner Azcuna is recognized.

MR. AZCUNA. Mr. Presiding Officer, the phrase "co-principals, accomplices and accessories" refers to criminal cases. So I propose to insert the phrase "OR THEIR TRANSFEREES IN BAD FAITH" in order to be able to recover these properties even from transferees of the public officers if they are done in bad faith. Hence, the amended section will read: "The right of the State to recover properties unlawfully acquired by public officials or employees OR THEIR TRANSFEREES IN BAD FAITH."

THE PRESIDING OFFICER (Mr. de los Reyes). What does Commissioner Monsod say?

MR. MONSOD. We have no objection to that, but I understand there is a comment on this matter.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. I would object if we qualify transferees in bad faith, because to my mind if an action to recover the ill-gotten wealth proceeds from a criminal act, then there cannot be any obstacle to its recovery even from anybody regardless of the manner of acquisition. Here, we will be putting up the defense of good faith, and so it could no longer be recovered if it had been transferred to another party. So I would really object. It is better that we should not make any qualification whether the transferee is a transferee in good faith or a transferee in bad faith.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Azcuna, the proponent of the amendment, is recognized first.

MR. AZCUNA. Mr. Presiding Officer, I share with the statement of Commissioner Davide that the right should extend to transferees. However, there are transferees in good faith against which even stolen goods under present law cannot be recovered, like the goods bought in a public market. My concern, therefore, is that there should be some words inserted to make it clear that the State can, regardless of prescription laws, still go after this ill-gotten wealth in the hands of the associates of the public officials or private persons. Perhaps, the word "associates" in R.A. No. 1379 can be used instead of the phrase "co-principals" or "TRANSFEREES IN BAD FAITH."

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Nolledo is recognized.

MR. NOLLEDO. Mr. Presiding Officer, thank you for recognizing me.

I share the views of Commissioner Davide because I am the original author of this provision. I filed a resolution to this effect, and I hope Commissioner Azcuna will be kind enough to withdraw his amendment, because pursuant to Article 1505 of the Civil Code of the Philippines, a certain title could be passed only if the transferor has a valid title over the property. In this case, if it is an ill-gotten wealth or a wealth unlawfully acquired, the transferor has no title whatsoever. Therefore, applying the pertinent provisions of Article 1505 of the Civil Code of the Philippines dealing on sales, whoever is in possession of the ill-gotten wealth whether in good faith or in bad faith must surrender the same to the government.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Regalado is recognized.

MR. REGALADO. Mr. Presiding Officer, I sustain the position of Commissioner Davide and consequently that of Commissioner Nolledo also. We should not make permutations in this constitutional provision. The law will deal with the specific case. If a property is acquired in bad faith, under Article 1379, Section 12, that act is already a criminal offense. Assuming that it was not a criminal offense, at least, the civil law will come in as to whether or not there was bad faith for value or for a consideration, or as to whether or not there was conspiracy. Let us not look into all the varied situations and the permutations. It is sufficient as a statement of principle. What we are just trying to avoid here is the setting in of the statute of limitations. Perhaps, individually, in different cases, there may be different defenses that may also arise which the parties may invoke. Let us have the courts of justice appreciate those defenses exclusive of the question of the statute of limitations or prescription because this is a constitutional provision. We cannot make subject to these conditions, like "except," "provided," "however," and so forth.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Azcuna is recognized.

MR. AZCUNA. Mr. Presiding Officer, I am willing to withdraw my amendment as long as it is made clear that the absence of prescription runs even against a private person who has acquired this ill-gotten wealth — that is, we have the same intention. We want the right of the State to recover this property regardless of prescription, even when this property is in the hands of transferees or whether or not they are in bad faith or good faith as long as that is the intention because the wording refers only to recovering it from the public officials or from government employees.

Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes). The amendment of Commissioner Azcuna is deemed withdrawn.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Padilla is recognized.

MR. PADILLA. I second the proposed amendment of Commissioner Azcuna. I think he should not withdraw. The Civil Code has been mentioned and, precisely, the Civil Code provides that an owner who has lost or has been unlawfully deprived of his property has the right to recover it from whoever may be the possessor. However, if the possessor be an alleged pledgee or buyer in good faith, the right of the owner is superior to the transferee and it need not be in bad faith. If it is in bad faith, it is with more reason. But under Article 559 of the Civil Code, the transfer of stolen property does not vest title on the transferee because the original owner has superior rights over this property.

Mr. Presiding Officer, there have been many decisions regarding personal property which has been stolen and transferred by sale or even in good faith to a third person, now called a transferee. As long as the owner is deprived by an unlawful act of his property, that owner has a superior right to recover from the transferee, even if the latter be a pledgee or a buyer in good faith. The only exception is about public fairs and markets which are not really in effect because even the State in a sale at public auction does not warrant the title. We agree to remove the phrase "co-principals, accomplices, or accessories," because that would imply a criminal action against the persons criminally liable. However, in the recovery of ill-gotten wealth belonging to the people or to the nation, this act is superior over any supposed rights of a transferee, even if he claims to have acted in good faith. So, the suggested phrase "public officials or employees" is already a good amendment. The phrase "OR THEIR TRANSFEREES IN BAD FAITH" need not be mentioned.

MR. NOLLEDO. That is correct.

MR. PADILLA. As long as the property is stolen, the original owner has a superior right over any other transferee.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. de los Reyes). The session is suspended.

It was 5:55 p.m.

RESUMPTION OF SESSION

At 5:56 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

MR. AZCUNA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Azcuna is recognized.

MR. AZCUNA. Convinced by the persuasive logic of Commissioner Padilla, I would like to reintroduce my amendment in modified form. The amendment would be just to add the word "TRANSFEREES" so as to read: "to recover the ill-gotten wealth from the government officials, employees or their TRANSFEREES."

THE PRESIDING OFFICER (Mr. de los Reyes). Is that satisfactory to Commissioner Monsod?

MR. MONSOD. There is a problem on the interpretation of this Article 13 once we add that word "TRANSFEREES," because it says: "The right of the State to recover properties unlawfully acquired by public officials or employees." If we add that word "TRANSFEREES," it would mean that the transferees were also involved in the unlawful acquisition of the said property.

THE PRESIDING OFFICER (Mr. de los Reyes). I thought the Commissioner said he had agreed to the formulation.

MR. MONSOD. That is why we are all reconsidering our positions here.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. de los Reyes). The session is suspended.

It was 5:57 p.m.

RESUMPTION OF SESSION

At 5:58 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. In order to clarify the intent of the amendment, we suggest that the amendment be stated this way: "FROM THEM OR FROM THEIR TRANSFEREES." So, the entire section will read: "The right of the State to recover properties unlawfully acquired by public officials or employees FROM THEM OR FROM THEIR TRANSFEREES shall not be barred by prescription, laches or estoppel."

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Azcuna is recognized.

MR. AZCUNA. I accept the amendment.

THE PRESIDING OFFICER (Mr. de los Reyes) Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, I recall I presented an amendment precisely on this provision. I gave way to Commissioner Davide at that time because the imprescriptibility provision was supposed to cover both criminal and civil actions. I just want to clarify this from Commissioner Monsod or from Commissioner Davide if in the present formulation, what is covered is only imprescriptibility of civil action and not of criminal action. Commissioner Davide can probably answer that.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. Yes, it is just the imprescriptibility of the civil action.

MR. MAAMBONG. If only civil action, it does not cover imprescriptibility of criminal action.

MR. MONSOD. Yes, that is right.

MR. MAAMBONG. Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the Commission now prepared to vote on the issue?

MR. RAMA. Yes.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection to the amendment of Commissioner Monsod? *(Silence)* The Chair hears none; the amendment is approved.

MR. RAMA. I ask that the chairman of the Steering Committee be recognized to state the schedule for tomorrow.

MR. BENGZON. Before we adjourn, Mr. Presiding Officer, may I just state the schedule for tomorrow. Since the Committee on the National Economy and Patrimony will be meeting right after the session, whatever will be agreed upon will be presented formally tomorrow morning. Therefore, our schedule for tomorrow morning will be a continuation of the discussion on the Article on National Economy and Patrimony. In the afternoon, we are going to take up the period of sponsorship and debate on the Article on Human Resources.

THE PRESIDING OFFICER (Mr. de los Reyes). But before we adjourn, there is a minor procedure which we have to comply with. Since we have reconsidered a certain section on the Article on Accountability of Public Officers, we have to approve the whole article now on Second Reading.

MR. BENGZON. Let us put that now to a vote.

THE PRESIDING OFFICER (Mr. de los Reyes). Will the chairman please read the article? It will be read first by the Secretary-General.

MR. RAMA. Mr. Presiding Officer, I move that we dispense with the reading of that article.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none: the motion is approved.

APPROVAL OF PROPOSED RESOLUTION NO. 456 ON SECOND READING

(Article on the Accountability of Public Officers)

MR. RAMA. I move that we now vote on Second Reading on the Article on the Accountability of Public Officers.

THE PRESIDING OFFICER (Mr. de los Reyes). We now vote on Second Reading on the Article on Accountability of Public Officers.

As many as are in favor of the Article on the Accountability of Public Officers will raise their hand. *(Several Members raised their hand.)*

As many as are against will please raise their hand. *(One Member raised his hand.)*

The results show 33 votes in favor and 1 against; the Article on Accountability of Public Officers is, therefore, approved on Second Reading.

MR. SUAREZ. Mr. Presiding Officer, I voted against, because of the provision on the Ombudsman.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA. I move that we adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:04 p.m.

R.C.C. NO. 69

Friday, August 29, 1986

OPENING OF SESSION

At 9:52 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Ambrosio B. Padilla.

Everybody remained standing for the Prayer.

PRAYER

MR. PADILLA. Almighty God, our Creator and Lord: With infinite wisdom,You have given us Your Sermon on the Mount, which, in part, reads:

> Do not judge others, so that God will not judge you, for God will judge in the same way you judge others, and he will apply to you the same rules you apply to others. Why, then, do you look at the speck in your brother's eye and pay no attention to the log in your own eye? (Matthew 7: 1-5)

Dear Lord, we pray that in the arduous process of formulating the fundamental law, we invoke Your heavenly wisdom to guide us, human mortals with finite minds, in expressing our views with ample latitude for respect for contrary views.

The constitutional guarantee of the freedom of speech was explained by Justice Holmes:

> When men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition in the market, and that truth is the only ground upon which their wishes safely can be carried out.

Let us hope that through the remaining sessions of this Constitutional Commission, we will all invoke Divine Providence in enlightening our minds in drafting the 1986 Constitution which will fulfill the ideals and aspirations of all the Filipino people as one united nation. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present*
Azcuna	Present
Bacani	Present
Bengzon	Present
Bennagen	Present
Bernas	Present
Rosario Braid	Present
Brocka	Absent
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present*
Lerum	Present*
Maambong	Present*
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Absent
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present*
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present*
Suarez	Present
Sumulong	Present
Tadeo	Present
Tan	Present
Tingson	Present
Treñas	Absent
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 34 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

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*Appeared after the roll call

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection that we dispense with the reading of the Journal of the previous session? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection that we approve the Journal of yesterday's session? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection that we proceed to the Reference of Business? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from the Alliance Biblical Seminar, 101 Dangay St., Veterans Village, Project 7, Quezon City, signed by its President, Rodrigo D. Tano, urging the Constitutional Commission to incorporate in the new Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution.

(Communication No. 652 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from 18 signatories of the Concerned Women of the New Families Movement, suggesting that the provision in the Constitution for the protection of life be not only to protect life from the moment of conception but even up to the point of natural death.

(Communication No. 653 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from 835 signatories, all from Cebu, requesting inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 654 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from His Eminence, Ricardo Cardinal J. Vidal, President, Catholic Bishops' Conference of the Philippines, P.O. Box 3601, Manila, supporting the provision in the Constitution allowing the teaching of religion in the public elementary and high schools within the regular class hours by teachers designated or approved by the religious authorities of the religion to which the children belong.

(Communication No. 655 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 581 signatories with their respective addresses, seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 656 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Catholic Bishops' Conference of the Philippines, P.O. Box 3601, Manila, signed by its President, Ricardo Cardinal J. Vidal, extending wholehearted support to the provision in the Constitution that upholds and promotes the unity, stability and development of marriage and the family, and the provision seeking to equally protect the life of the mother and the life of the unborn from the moment of conception.

(Communication No. 657 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Association of Philippine Physicians in America, Inc., Norfolk, Virginia, U.S.A. urging the Constitutional Commission to include a provision that would make a natural-born citizen of the Philippines who has lost his Philippine citizenship a transferee of private lands.

(Communication No. 658 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from the Central Visayas Ecumenical Fellowship, 49 Mabini St., Cebu City, signed by 339 signatories, expressing opposition to Proposed Resolution No. 289, entitled: "Resolution providing in the new Constitution the teaching of religion in public elementary and secondary schools under certain conditions."

(Communication No. 659 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Cesar L. Legayada, National President, Federation of Unions of Rizal, Philippines (FUR) -TUCP, 247 Quirino Avenue, Baclaran, Parañaque,· Metro Manila, endorsing a proposed constitutional provision on industrialization, economic protectionism and Filipinization of the economy.

(Communication No. 660 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Rustico Durante of Budeos, Quezon, expressing opposition to the retention of foreign military bases in the country.

(Communication No. 661 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Mayors League of Zambales, Iba, Zambales, signed by its President, Porfirio F. Elamparo, and other officers, requesting for the retention of the U.S. military bases in the Philippines.

(Communication No. 662 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Wesleyan Church of Cabanatuan City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 663 – Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Bengzon be recognized.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, yesterday I announced that the Order of Business for today would be a continuation of the consideration of the Article on National Economy and Patrimony because we felt then that the committee meeting would be finished. We indeed finished the meeting, Madam President, but we have not yet quite completed our reconciliations. So, I would like to propose that the Article on Education, Science, Technology, Arts and Culture be considered this morning in the period of sponsorship and debate. Should we finish with the Article on National Economy and Patrimony in the committee level this afternoon, then we can go back to it.

Madam President, I move that Commissioner Villacorta be recognized, together with the rest of the members of the committee for the sponsorship of the Committee on Human Resources.

THE PRESIDENT. Have the honorable chairman and members of the committee been informed before this manifestation?

MR. BENGZON. Yes, Madam President.

THE PRESIDENT. So then, is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Chair requests the chairman, Commissioner Villacorta, Vice-Chairman Uka and the following members of the Committee on Human Resources to please occupy the front desk: Commissioners Guingona, Brocka, Quesada, Tan, Bennagen, Gascon, Rigos, Rosario Braid and Treñas.

CONSIDERATION OF COMMITTEE REPORT NO. 29
(Article on Education, Science, Technology, Arts and Culture)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. I move that we consider Committee Report No. 29 as reported out by the Committee on Human Resources.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Consideration of Committee Report No. 29 is now in order. With the permission of the body, the Secretary-General will read only the title of the committee report without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL. Committee Report No. 29, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON EDUCATION, SCIENCE, TECHNOLOGY, ARTS AND CULTURE.

(The following is the whole text of the proposed resolution per C.R. No. 29 as amended.)

RESOLUTION TO INCORPORATE IN THE CONSTITUTION AN ARTICLE ON EDUCATION, SCIENCE, TECHNOLOGY, ARTS AND CULTURE.

Be it resolved by the Constitutional Commission in session assembled, To incorporate in the Constitution the following provisions.

ARTICLE ____

EDUCATION, SCIENCE, TECHNOLOGY, ARTS AND CULTURE

Section 1. The State shall give priority to education, science and technology, arts and culture for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom.

EDUCATION

Sec. 1(a) Education is the right of every citizen of the Philippines. The State recognizes its duty of providing education to all citizens.

(b) The State shall establish and maintain a system of free public education at the elementary and the secondary levels and a socialized fee structure in the tertiary level of state colleges and universities. Education shall be compulsory through the elementary level.

(c) The State shall promote quality education and ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives.

(d) The State shall provide a comprehensive approach to education by coordinating formal, non-formal and informal and indigenous learning systems, as well as self-learning, independent and out-of-school study programs particularly those that respond to community needs.

The State shall provide civics, vocational efficiency and other skills training to adult citizens, to the disabled and out-of-school youth.

Sec. 2(a) All educational institutions shall inculcate nationalism, love of fellowmen and respect for human rights, teach the rights and duties of citizenship, instill political, health and ecological consciousness and service to society, strengthen ethical and spiritual values, develop moral character and personal discipline, encourage critical and creative thinking, promote scientific, technological and work-oriented efficiency and impart liberal education.

(b) The State shall exercise reasonable supervision and regulation of all educational institutions to ensure that quality education shall be provided to all levels by them. The State shall establish, maintain and support a complete, adequate and integrated system of education relevant to the needs of the people and society. The State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

(c) Private educational institutions shall be owned and administered solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, unless provided by law.

(d) The State shall not interfere with the right of every citizen to select a profession or courses of study, subject to admission and selection requirements.

(e) In the formulation of educational policies, the State shall take into account regional and sectoral needs and conditions and shall involve their respective representatives in policy planning.

(f) Sec. 12. All educational institutions at all levels shall be required to form multi-sectoral bodies composed of students, faculty, parents, non-teaching staff, administrators and other representatives to participate in the formulation of school policies and programs, the details of which will be provided by law.

(g) The study of the Constitution and human rights shall be part of the curricula in all schools.

(h) At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools by teachers designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government.

(i) The State shall promote physical education and sports programs for the total development of a healthy and alert citizenry. Towards this end, the State shall provide opportunities for participation involving all sectors and assure the teaching and practice of Physical Education and Sports in the curricula of the national educational system.

Sec. 3. All institutions of higher learning as well as faculty members and students thereof, shall enjoy academic freedom. Institutions of higher learning shall enjoy fiscal autonomy.

Sec. 4. The State shall promote and protect the status and standards of the teaching profession. Teachers, researchers and non-teaching academic personnel shall enjoy the special care and protection of the State.

Academic and non-academic personnel shall have the right to form associations or organizations and to undertake concerted activities for their mutual aid and benefit. They shall enjoy security of tenure and may not be removed from office except for causes provided by law.

Sec. 5(a) The State shall encourage the establishment of educational foundations and cooperatively-owned educational institutions towards the achievement of objectives set forth herein.

(b) Non-stock, non-profit educational institutions shall be exempt from taxes and duties. Proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders dividends as may be provided by law.

(c) The State may subsidize educational institutions which are duly accredited for the purpose of subsidy as may be provided by law, without prejudice to other types of assistance or incentives given to all educational institutions.

LANGUAGE

Section 1. The national language of the Philippines is Filipino. The national language shall be further developed on the basis of Philippine and other languages. Steps shall be taken by the government to further develop, enrich and use it as a medium of communication in all branches of government and as the language of instruction at all levels of the educational system.

Sec. 2. The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions.

The Constitution shall be promulgated in Filipino and English and shall be translated into the regional languages.

SCIENCE AND TECHNOLOGY

Section 1. Science and technology are essential for economic growth and national development. The State shall give the highest priority to research, development, and utilization, invention and innovation, and science and technology education, training and services. The State shall support the development of indigenous, appropriate and independent scientific and technological capabilities and their application to the nation's productive systems for self-reliant and sustainable socio-economic progress in the service of the people.

Sec. 2. Scholarships, grants-in-aid or other forms of incentives shall be provided for scientists, technologists and specially gifted citizens.

Sec. 3. The State shall promote and support the transfer and adaptation of technology from diverse sources, where such technology is responsive and appropriate to society's needs, and obtained at equitable terms. The widest participation of the private sector and community-based organizations in the generation and utilization of science and technology will be encouraged.

ARTS AND CULTURE

Section 1. The State shall protect, conserve and promote the nation's historical and cultural heritage and resources, including paleontological, archeological and artistic objects.

Sec. 2. The State shall recognize, respect, protect and preserve the cultures, traditions and institutions of indigenous communities and shall consider them in the formulation of national plans and policies.

Sec. 3. The State shall support and encourage the development of a Filipino national culture which shall be non-partisan, pluralistic, liberative and democratic.

(a) The State shall guarantee freedom of expression for all those engaged in cultural work and assure their freedom from political interference, restrictions and control.

(b) The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, and scholarships, grants and other incentives.

(c) The State shall encourage and support scientific and cultural research and studies.

(d) The State shall protect and secure for a limited period the exclusive rights of inventors, artists and other intellectuals to their inventions and artistic and intellectual creations.

(e) There shall be an independent central authority to formulate, disseminate and implement the cultural policies and programs of the State.

THE PRESIDENT. Commissioner Villacorta is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER VILLACORTA

MR. VILLACORTA. Madam President, our Committee on Human Resources would like to present today its report to the Commission. First of all, we would like to acknowledge the important contribution of Commissioner Guingona in proposing the formation of a Committee on Human Resources, and Commissioner Uka whose now famous comment "What is one committee among friends?" ensured the adoption of this committee.

In rebuilding society, the significance of education, science and culture cannot be overemphasized. The Filipino nation in particular is still searching for its identity and for the appropriate educational system that will ford our people to greater self-confidence and achievement. Without a national consciousness and necessary skills that are committed to the service of the Filipinos themselves, there will be difficulty in realizing the aspirations of other articles in this Constitution, particularly the ones on social justice and national economy.

Our draft article covers four main topics; namely, education, language, science and technology, arts and culture. I submit, Madam President, that all these are essential ingredients for human development. The Committee on Human Resources arrived at the draft article after several meetings and hearings which witnessed thorough and objective discussions covering critical analysis and consideration of the pertinent provisions of the Malolos Constitution, as well as those of the 1935 and 1973 Constitutions, together with the resolutions, position papers and communications submitted by the Members of this Commission and by the public at large. The committee availed itself of the opinion and expertise of scholars and other resource persons in the fields of education, language, science and technology and arts and culture. The committee also took into account the views expressed by the different sectors during the public hearings and consultations which enabled the committee to reflect the public pulse in the draft article.

It may be of interest to note that the Malolos Constitution devoted only one brief article to education, and in that light, the 1935 and the 1973 Constitutions contained only one section each on education, although in a slightly expanded form. In its Article XIV on General

Provisions, the 1935 Constitution contained one section for language, Section 3; scientific inventions, arts and letters combined, Section 4; and education, Section 5. The same may be said of the 1973 Constitution which also provided one section each for language, education, science and technology and culture.

For the first time in our history, we are devoting one whole article to the subjects of education, language, science and technology and arts and culture. This is rightly so because these are priority areas which have long been neglected by our government. Moreover, it is about time that we set the goals and objectives of our government in these areas in the light of our problems of social development, resulting from poor quality and inaccessibility of education, the underdevelopment of science and technology, the lack of national unity, pride and identity of our people, and the debasement of our national and local cultures. The rationale of the draft article is that the State should give highest priority to education, science and technology, arts and culture for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom.

For the convenience of the Members of this Commission, I shall state briefly the salient points of the draft article as follows:

First, education is a right and priority should be given to education, science and technology. This is to fully develop the human potentials of the individual in order to enable him to look forward to employment and enterprising opportunities that will make him a productive citizen and responsible family man.

Second, free public education up to the secondary level.

Third, regional and sectoral considerations in educational planning.

Fourth, preservation and development of cultural resources and institutions with their realization that culture can help build a democratic society.

Fifth, genuine development of the national language in order to accelerate the collective participation of the Filipino people in socioeconomic development and nation building.

Sixth, protection and enhancement of the status of teachers and the upgrading of the standards of the teaching profession.

Seventh, greater assistance to schools in order to enhance their social service.

And eighth, promotion of indigenous and appropriate technology in the service of the people.

May I quote what two of our leading constitutionalists, Messrs. Tañada and Fernando, said on the right of education, to wit:

> The right to education affords to every citizen access to such values as enlightenment and skill. Such right is essential to avoid a caste society and to afford the real equality of opportunity which a regime of freedom and democracy demands. Democracy as an ideal approaches reality when positions of leadership are open to all, irrespective of one's financial condition at birth, whether in the public service or in private business or in the professions. Unless appropriate training though is undergone by those who have aptitude and talent, they will not acquire the skills that will fit them into such positions of leadership. To others who may not be in the front rank of whatever endeavors they may pursue, instruction is likewise indispensable because skill, in whatever form, is essential to enable everyone to express his opinion and make his opinion felt on matters of public concern.

This is cited in Gonzales' *Philippine Constitutional Law.* For the sake of our people, especially the disinherited, and for national pride and identity, as well as for expanding the frontiers of freedom and justice in our beloved land, we, the members of this committee, look forward to the consideration and approval of our committee report and draft article.

Thank you very much, Madam President.

The chairman of the Subcommittee on Education, Commissioner Guingona, would like to give some presentations.

THE PRESIDENT. Commissioner Guingona is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER GUINGONA

MR. GUINGONA. Thank you, Madam President.

I would like to start with the first section under "Education," which is actually Section 1(a), and with the permission of the honorable President, I would offer to give comments on other provisions which have been assigned to me by our chairman, the Honorable Villacorta. Section 1(a) says that education is the right of every citizen of the Philippines and the State recognizes its duty of providing education to all citizens. The right to education is one of the human rights to which man is entitled. It is not only a natural and positive right, but it is now a universal right.

In providing for this right, specifically in the Constitution, we are in effect translating the moral right to which man is entitled to a positive right, which may be enforceable under the law. The right to education is recognized under Article 26, Section 1, of the Universal Declaration of Human Rights, which says that everyone has the right to education. It is also recognized in Article 13, Section 1, of the International Covenant on Economic, Social and Cultural Rights. Legal or positive rights are rights which men actually have under the law, while natural rights are those which they ought to have. Notwithstanding the view of philosophers like Jeremy Bentham and Edmund Burke, who contend that man is in no sense entitled to natural rights because they are rights that cannot be enforced, the fact of the matter is that the right to education is now recognized as a universal right. World opinion has been so strong about matters of human rights, including the right to education, that there seems to be no question about the fact that they exist. And it is the view of the Subcommittee on Education that the right to education is enforceable, not only under the law but under equity.

In other words, Madam President, the word "right" need not only mean lawful entitlement but may also refer to just entitlement. But we would like to mention that the right to education is not given primacy by the State over the rearing of the youth, because the rearing of the youth is the primary role of parents and guardians. Unlike in totalitarian states, the role of a State should be supportive but at the same time complete and adequate. In totalitarian states, it is only the societal needs of the students that are considered without regard to their individual needs. Hitler has been quoted as saying:

> The most corroding and disintegrating poison that liberalism has ever invented for its destruction is education.

On the other hand, H.G. Wells has said, and I quote: "Human history becomes more and more a race between education and catastrophe." May I conclude, Madam President, by quoting Justice Earl Warren in the case of *Brown v. Board of Education of Topeka,* 347 US 483,493, when he said:

> Today, education is perhaps the most important function of State and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.

Thank you, Madam President.

MR. VILLACORTA. Unless the other subcommittee chairmen would like to say something, Madam President, we are ready for interpellations.

THE PRESIDENT. Is there any other speaker from the committee?

MR. GUINGONA. Madam President, may I add something which I missed in my remarks.

In our proposal, we have attempted to expand the mandate of the right to education because in previous Constitutions – in the 1935 and 1973 Constitutions – we do have provisions on the right to education. For example, under the 1935 Constitution, the State is mandated to provide at least free public primary instruction and citizenship training to adult citizens, while the 1973 Constitution under Article XV, Section 8(5), requires that:

> The State shall maintain a system of free public elementary education and, in areas where finances permit, establish and maintain a system of free public education at least up to the secondary level.

Section 8(6), on the other hand, provides citizenship and vocational training to adult citizens and out-of-school youth. In other words, there is already a recognition of this right to education but we in the Subcommittee on Education have attempted to expand this mandate by specifically saying that education is the right of every citizen of the Philippines and correspondingly that the State recognizes its duty of providing education to all citizens. With this proviso, we have in effect widened the scope of the constitutional mandate. However, the enforceable rights – in the sense that they are constitutionally or legally mandated under this draft Constitution and are, therefore, subject within the context or framework of the Constitution – would only be those specifically contained therein, such as:

(1) Free public education at the elementary and secondary levels;

(2) Socialized fee structure in the tertiary level of state colleges and universities;

(3) Maintenance of a system of scholarship grants and other incentives; and

(4) The provision of civic, vocational efficiency and other skills training to adult citizens, the disabled and out-of-school youth.

The provision of the right to education in our opinion could expand the scope of this right so that the State would be under obligation whenever finances permit to offer a wider variety of formal, as well as nonformal education, to Filipino citizens, including free tertiary education. The inclusion of this right will also serve as a mandate to the State to give top priority to education insofar as government expenditures are concerned, a mandate for the State to look for sources of revenue, such as the one suggested by Commissioner Davide, in order to be able to comply with this obligation to provide education to the citizens. Former 1970 Constitutional Convention Delegate Ceferino Padua has, in a letter to the Commission, called our attention to the fact that the allocation for education had dropped from a high of 38 percent of the total budget to a low of 8 percent during the latter years of the Marcos administration

The previous administration attempted to deceive the people by presenting figures that would show that more money was appropriated for education every year, conveniently ignoring the fact that in the 1960s the peso value was high (P4 to $1) compared to the peso value during the latter part of 1985 which became considerably low at P20 to $1. Our thinking is that if we could gradually go back to the 38 percent allocation that Delegate Padua has talked about, coupled with the much awaited economic recovery, it should not be too long before the government, if not this present administration, will be able to provide fully not only the education specified within the context or framework of this draft Constitution but other types of education as well, both formal and nonformal.

Parenthetically, the provision regarding the State providing free secondary education is more an expression of an objective or priority rather than a mandate that would be immediately and fully executory. We are aware that as early as 1935, our Constitution had specifically mandated that the government shall establish and maintain a complete and adequate system of public education and shall provide at least free public primary instruction, and in the 1973 Constitution, that the State shall maintain a system of free public elementary education. The fact is that in school year 1967-1968 as observed by Dr. Pedro Orata in his book *Contemporary Issues in Philippine Education,* page 83, more than 200,000 seven-year olds or 20.46 percent of the total seven-year olds were not accommodated in Grade I. Thirty-two years after the enactment of the 1935 Constitution, more than a decade after the enactment of the 1973 Constitution, the dropout rate in the elementary level is still alarmingly high. For school year 1984-1985, out of 100 students who entered first grade, only 67 percent finished elementary.

I spoke about conventions. There is also the Declaration of Rights of Children adopted by the United Nations, which says that the child is entitled to education. This responsibility lies, in the first place, with the parents. That is why I spoke earlier of the subsidiary or supportive role of the State in relation to this natural right of parents, which is an inherent and inalienable right. As held in the case of *Pierce v. Society of Sisters of Holy Name* (268 U.S. 510), the State cannot prohibit children from attending private schools in order that they should go to public schools. Justice James Clark McReynolds in that leading case says, and I quote:

> The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only.

Article 13, Section 3 of the International Covenant on Economic, Social and Cultural Rights provides that:

> The States Parties to the present covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities.

Thank you, Madam President.

MR. VILLACORTA. Madam President, Commissioner Gascon who helped very much in revising these provisions on education wishes to be recognized.

SPONSORSHIP REMARKS OF COMMISSIONER GASCON

MR. GASCON. Thank you, Madam President.

As a student, I feel very strongly for education and I really believe that there must be a lot of changes to be made in our present educational system. This is why I believe that education is a right and not a privilege. I believe that education is a basic right of all, accessible even to the poorest among us, and not simply an exclusive privilege of the moneyed few who can continually avail of it by virtue of their superior purchasing power.

Now, there arise, when we speak of education, essentially two complex and urgent questions. First, is Philippine education relevant to the Filipino people? And second, are the Filipino people relevant to Philippine education? We feel that education as a right and not as a privilege should not merely be a constitutional provision, but a concrete policy and a comprehensive program of action. This means understanding a full review and systematically implementing changes involving both teacher and student in terms of greater number of schools, classrooms, laboratories and other physical facilities, in terms of higher budget allocation towards more scholarships for the financially poor but academically deserving students, and also so that teachers can have decent salaries and are of equal importance in terms of reorienting and redirecting the entire Philippine educational system. We feel that education should stand for the truth, the truth about the entire range of problems – poverty, human rights violations, political strife and so on – which permeate and persist throughout all levels of our society; also the truth concerning the options we, as a nation, have, limited as they may seem to be towards realistic approaches in these difficulties.

Education must also promote freedom – freedom to teach, freedom to learn, freedom from exploitation by Filipinos themselves and from neocolonization by others, freedom from domination and from dehumanization, freedom from hunger, freedom from fear, freedom from illiteracy; and above all, the freedom to be a nation. Education should also finally work towards justice and peace. We should encourage an education encouraging economic justice where workers are treated as costewards of our economy rather than as objects of corporate exploitation. It should encourage political justice where ordinary citizens are given as much participation as possible in the decision-making processes so urgently required by our people. Education should promote social justice where the poorest among us are served first because they suffer most, not only in terms of income, but also in matters of health and social services. It should also promote cultural justice and respect for our different ethnic communities who are allowed to preserve their identity and continue their heritage over and above any efforts towards technocratization and modernization.

Education – authentic and meaningful education – is, therefore, a continuing process of being a person and being a nation. It is working towards the free development of each so that we may attain the full development of all. It is the readiness to teach and the willingness to learn. This is why when we speak of education as a right, it means very clearly that education should be accessible to all, regardless of social and economic differences, meaning, educational opportunities should be provided through a system of free education, at least, up to the secondary level. And recognizing the limits of our financial resources, tertiary education should still be afforded and provided availability to those who are poor and deserving. That is why when we say that education is a right, it imposes a correlative duty on the part of the State to provide it to the citizens. Making it a right shows that education is recognized as an important function of the State. Education is not merely a social service to be provided by the State. The proposed provision recognizes that a right to education is a right to acquire a decent standard of living, and that, therefore, the State cannot deprive anyone of this right in the same manner that the right to life, the right to liberty and property cannot be taken away without due process of law.

However, the public duty of the State in providing education is limited to the financial aspect. They cannot compel parents to enroll their children in a specified school. This duty belongs to the parents. The argument that needy parents' choice is limited only to public schools and not to private schools does not hold water. Parents' choice in schools must depend on the quality of education provided by the schools. If both public and private schools offer the same kind of education which is not the case at present, then the choice of the parents is merely moot and academic. The primary end-all is that we should give proper and quality education to the youth.

Thank you.

MR. VILLACORTA. Madam President, Commissioner Rosario Braid would like to be recognized.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Madam President, I would like to briefly focus on the process of education, the methodology of education. The concern of our committee provision is based on the observation that planning thus far has been centralized with little participation from the various sectors; there has also been a mismatch in terms of the content and processes of education with the employment sector. Thus far, there has been too much focus on schooling, on formal education, with little attention to the nonformal or informal schooling that happens outside of the classroom. This concern acknowledges the important role that the family, the mass media, the Church, and other nonformal sectors in society play in terms of the formation of values and attitudes. This concern acknowledges the universal concern expressed by philosophers like Illich in his "Deschooling Society," or Faure in his "Learning to be and learning to do" where he proposes a balance between attitudinal and skills training.

If we examine the educational philosophy of our country since 1800, we find that there has been so much concern either with skills development or on humanities. There is a lack of integration of arts or science, or to quote our philosopher, Snow, "the challenge to be able to integrate culture and science." This concern is expressed in some of our provisions where we have tried to provide a comprehensive approach to education – that which integrates the learning to be, with learning to do, the arts and science and humanities, the need to have a comprehensive and coordinated approach to the formal, nonformal and informal, and the need to let as many sectors in the population – the farmers, the fishermen, the parents and other sectors – participate in planning. It is this attempt to forge horizontal, bottom-up links in planning that will truly contribute to a humane, relevant educational system. Perhaps, with this vision, there might be less brain drain; there would be less rural-urban migration in terms of students seeking jobs in central and urban places because education is linked to employment, because education is planned by regions which are able to adapt education to the needs of the community.

True enough, there are experiments going on in the system. The bayanihan school and a number of others are breaking away from the too formal, rigid curricular top-down planning, and relating education to the needs of the economic, social, cultural conditions of the community. But there are not enough of them. And so we would like to see the use of as many delivery systems, the new communication technology, the community organizations as appropriate delivery systems for education.

So it is in this spirit of wanting to break away from the too formal schooling that I have focused on, because my colleagues have amply discussed the problems, the opportunities, the resources of the formal educational system.

Thank you, Madam President.

MR. SARMIENTO. Madam President, Commissioner Quesada would like to be recognized.

THE PRESIDENT. Commissioner Quesada is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER QUESADA

MS. QUESADA. Madam President and distinguished Members of this Commission: I would like to pose the following statements which we hope will guide the body in the deliberation on the subject of science and technology. I do not think that there will be any disagreement about the following statements:

1. That science and technology, more than any resource, have enabled mankind to control and dominate nature;

2. That in mastering the forces of nature, science and technology have opened up staggering opportunities for the development of productive forces;

3. That science and technology have raised economic productivity to unprecedented levels, especially in the advanced industrial countries of the world where technology has been described as quantitatively the single most important factor for growth;

4. That ascribable to science and technology is the comparatively recent phenomena of newly industrializing countries that have achieved remarkably high economic growth rates. These high achievers include our Asian neighbors; namely, South Korea, Taiwan, Hongkong and Singapore; Brazil, Mexico, Argentina and Uruguay in Latin America; and Yugoslavia, Hungary and Romania in Eastern Europe; and

5. That to the degree that these countries and the industrial countries of the North have progressed in the sphere of science and technology, they have strengthened their economic and military security; hence, their national sovereignty and independence.

These propositions have been discussed with the science and technology community wherein the following questions were taken up.

1. Why have not then science and technology provided the essential goods and services for the great majority of the Filipino people, for the 70 percent, perhaps 80 percent by now, of Filipino families who have sunk below the poverty line?

2. Why, in spite of extensive researches conducted by our scientists and research and development workers, can we not adequately feed, clothe and house, as well as provide education and health services for the majority of our citizenry who are malnourished, scantily clothed, ill-housed, undereducated and physically unfit?

3. Why, indeed, are our scientific and technological researches not utilized by the productive sector of our society?

4. Why does our economy have to be so dependent on and be so dominated by foreign technology?

5. Why have we lagged behind in industrialization, in technology-based industries, such as capital goods, steel mills and chemicals, and in the processing of our primary products, like coconut, sugar, minerals, and forestry and marine products?

After interactive exchanges of ideas, debates, proposals and counterproposals participated in by a broad spectrum of representatives from the science community and even by some very articulate high school students, we were able to come up with the following approximation of our situation:

1. Science and technology cannot be a factor in national development unless parallel changes take place in other areas, some of them seemingly unrelated to science and technology. An example is genuine agrarian reform which raises farm productivity and farmers' income, enabling them to contribute to the government's coffers and send their children to school.

2. High literacy and a high level education are prerequisites to the build-up of scientific and technological manpower, the *sine qua non* of an indigenous capability in science and technology.

3. All efforts must be made at the State level to develop indigenous, self-reliant and independent science and technology which must be systematically planned in coordination, in harmony with our economic and industrial policies.

Hitherto, our economic planners and policy-makers conjured up grandiose industrial schemes without giving any thought to the development of our own science and technology, thus isolating our science and technology activities from the mainstream of economic enterprises. This is one aspect of the problem why the results of our researches are not utilized by our productive system. The other aspect is that our economy is so dominated by foreign technology that no room is left for Filipino inventions and innovations. This is not to say that we should ban foreign technologies, but this inward transfer of technology should be regulated by the State. And only those that are appropriate or relevant for our social needs should be imported. Moreover, the terms and conditions of such transfer should be fair, reasonable and equitable.

A proposal to emphasize technology delivery by way of accelerating industrial development in the countryside always provokes animated discussions since their position is that it might deemphasize the other elements of a well balanced S and T development program — institution building, build-up of S and T infrastructures, feasibility studies, et cetera. The same is true of appropriate technology, emphasis on which might result in deemphasizing technologies associated with the modern sector.

Protection should be given to Filipino businessmen, entrepreneurs, especially those who utilize local inventions and innovations. Fiscal and nonfiscal incentives should be given to research and development organizations and to technologists, suppliers and users.

So, these are some of the thoughts that should help us look into the provisions that we have now placed in our Article on Education, Science and Technology, Arts, Culture and Sports.

Thank you, Madam President.

MR. VILLACORTA. Madam President, Commissioner Bennagen would like to be recognized.

THE PRESIDENT. Commissioner Bennagen is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER BENNAGEN

MR. BENNAGEN. Thank you, Madam President.

I would like to situate what I have to say in the context of the Article on National Economy and Patrimony which argues for a self-reliant and independent economy, as well as for full industrialization. The process of industrialization requires a change in world view, from something that is passive, personalistic and authoritarian, to something more scientific, more issue-oriented, more problem-oriented. This requires not only just changes in science and technology but also in the arts and culture, as well as in the restructuring of the Filipino society. What I will say, however, will be limited to or focused primarily on the provisions on language, partly on science and technology and the provisions on art and culture.

Let me read from a paper I prepared for an argument for "Free Filipino Mind and Heart." This proceeds from the euphoria of the February revolution when everybody was saying "I am proud to be a Filipino." For a long, long while, this was not spoken by Filipinos except, perhaps, in school plays. But after the people's uprising of February 1986, there was some talk of being proud to be a Filipino, a justified feeling, no doubt. Still, as the economic, political and cultural realities of our everyday world unfold and erode the euphoria of February, one asks a number of questions: Have we finally become Filipinized? Which is to say, have we finally internalized a feeling for and commitment to our nation beyond our commitment to our individual selves, to our families, to our ethno-linguistic groups or to some other narrowly defined groups? Have we begun to translate this newly found sense of being a Filipino into policies and programs that truly serve our fundamental interests as a nation?

These questions do not lend themselves to easy answers. But the answers that readily come to mind tend to be negative. Happily, there are also positive undercurrents. For example, despite efforts of various groups in propagating Filipino, we have not seriously implemented official pronouncements about our Wikang Pambansa, unquestionably, a significant cultural marker for national identity. But more than simply a cultural marker, a national language serving as a communication system across diverse ethno-linguistic groups and classes could facilitate the unification and empowerment of our people. This is, of course, without prejudice to the use of English and other languages as international languages and the development of regional languages such as Ilokano for the Ilocos Region, Cebuano for the Visayas and Mindanao, and Tagalog for the National Capital Region.

Incidentally, history tells us that unless science is internalized in the local languages, we can never develop a scientific attitude. If this is true with language, it is also true with the arts and the sciences. While there are efforts towards people's arts and people's science, we have not put our act together towards a systematic and sustained development of the arts and the sciences as instruments of national liberation from foreign control of our economy, our political life and our national psyche. On the seemingly trivial side, advertisements continue to sell foreign-owned products featuring mestizas and mestizos, if not Caucasian models, in some cases complete with snow and cowboys. The so-called Philippine basketball leagues are dominated by tall American imports who lord it over their Filipino counterparts. Some of the imports are awarded instant Filipino citizenship. If a basketball conference is reenforced, it is reenforced by American players. Caucasian beauties with foreign-sounding names continue to win beauty contests. A few of them come back from the United States and Canada to win over homegrown contestants. Even in our universities, a local scholar who goes abroad, mostly to the United States for further studies, goes under an "enrichment" program. Indeed the "Stateside-yata-'yan" mode of thought is very much a part of Filipino consciousness.

Such consciousness, uncritically beholden to things foreign, facilitates the acceptance of western domination. Its persistence helps to prevent us from galvanizing ourselves into a people truly committed to the completion of the political revolution of February 1986. This is not to say that we should reject all things foreign for in an interdependent world, independence, whether economic, political or cultural or all, is relative independence. But borrowing must be critical, so as to support the needs and legitimate interest of our people.

What then should we do? For now, let us continue waging the struggle for nationhood, not only in the economic and political spheres but also in the cultural sphere. Cultural struggle at the very best entails the following:

1. Critical investigation of our existing patterns of values, so that we could eradicate those that serve foreign interests and the internal forces of domination;

2. Identification of aspects of our culture that support our people's struggle for a better life, among which would be democratic values, as well as those of social justice which are still very much alive among indigenous groups in the lowlands and in the uplands; and

3. The development of our dignity and self-respect as a people, not only psychologically but also in terms of economic and political self-determination.

Marami pong salamat.

MR. VILLACORTA. Madam President, the vice-chairman of our committee, Commissioner Uka, would like to be the last speaker.

THE PRESIDENT. Commissioner Uka is recognized.

SPONSORSHIP REMARKS OF COMMISSIONER UKA

MR. UKA. Madam President, I have only a few statements with many words, of course. Our committee has provided in Section 4 of our draft that:

> The State shall promote and protect the status and standards of the teaching profession. Teachers, researchers and non-teaching academic personnel shall enjoy the special care and protection of the State.

It is high time that we should take good care of our teachers. They have waited too long for that. We should raise the standard of the teaching profession. Many of them have resigned and have gone abroad in search of greener pastures. Can we blame them? How much is the average salary of a teacher? Some of them receive less than P1,000 and we know what P1,000 will buy nowadays. That is their basic salary. They say the government has added the so-called cost of living allowance (COLA) to their salary but it is not even enough to buy Coca-Cola. *(Laughter)* No wonder my good friend, Commissioner Calderon, heard one of the teachers say, "I now resignate because the works are very many and the pay is few." *(Laughter)* Indeed, teachers work very hard. I know this because I have been a teacher for the last 54 years. We teachers work at night writing lesson plans, doing homework till the wee hours of the morning.

I started teaching when I was seventeen. What do we do? Even now, we have plenty of lesson-planning, seatwork and homework which seem to have no end. Many of us do not realize the importance of the teacher – the humble teacher. But we know in our hearts that the humble teacher is a nation-builder. The greatest men of the world were called teachers; they were not called lawyers or engineers. Moses was a teacher. So were the great messengers of God like Buddha and the Prophet Mohammed. We call Jesus the Great Teacher. Do we realize that you and I would not be here right now were it not for the humble teacher who has taught us our lessons from grade school up to college?

Indeed, the progress of a nation depends upon the quality of its teachers. Let us protect our teachers. Let us make teaching attractive to them. Let us try to attract them to the teaching profession. Many of them now feel that they belong to the endangered species. If we ask some of them what their profession is, they would answer, "maestro lang." That word "lang" should not be used by them because they are the moulders of the character of our youth, the fair hope of our native land. Teaching is a noble profession and we should make teachers realize that by raising the standard of the teaching profession.

Thank you.

MR. VILLACORTA. Commissioner Guingona wants to say something, Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Madam President, I have requested our distinguished chairman to be allowed to speak on one more section, because I believe we have introduced some significant changes in this section vis-a-vis the provisions of the 1973 Constitution. I refer to Section 2(b) which reads:

> The State shall exercise reasonable supervision and regulation of all educational institutions to ensure that quality education shall be provided at all levels by them. The State shall establish, maintain and support a complete, adequate and integrated system of education relevant to the needs of the people and society. The State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

Madam President, Section 2(b) introduces four changes: one, the addition of the word "reasonable" before the phrase "supervision and regulation"; two, the addition of the word "quality" before the word "education"; three, the change of the wordings in the 1973 Constitution referring to a system of education, requiring the same to be relevant to the goals of national development, to the present expression of "relevant to the needs of the people and society"; and four, the explanation of the meaning of the expression "integrated system of education" by defining the same as the recognition and strengthening of the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

When we speak of State supervision and regulation, we refer to the external governance of educational institutions, particularly private educational institutions as distinguished from the internal governance by their respective boards of directors or trustees and their administrative officials. Even without a provision on external governance, the State would still have the inherent right to regulate educational institutions through the exercise of its police power. We have thought it advisable to restate the supervisory and regulatory functions of the State provided in the 1935 and 1973 Constitutions with the addition of the word "reasonable." We found it necessary to add the word "reasonable" because of an *obiter dictum* of our Supreme Court in a decision in the case of *Philippine Association of Colleges and Universities vs. The Secretary of Education and the Board of Textbooks* in 1955. In that case, the court said, and I quote:

> It is enough to point out that local educators and writers think the Constitution provides for control of education by the State.
>
> The Solicitor General cites many authorities to show that the power to regulate means power to control, and quotes from the proceedings of the Constitutional Convention to prove that State control of private education was intended by organic law.

The addition, therefore, of the word "reasonable" is meant to underscore the sense of the committee, that when the Constitution speaks of State supervision and regulation, it does not in any way mean control. We refer only to the power of the State to provide regulations and to see to it that these regulations are duly followed and implemented. It does not include the right to manage, dictate, overrule and prohibit. Therefore, it does not include the right to dominate.

Delegate Ernesto S. Amatong of the lone district of Zamboanga del Norte, in his sponsorship speech in Report No. 1 of the Committee on Education during the 1971 Constitutional Convention (Session No. 143, March 28, 1972), made the following remarks, and I quote:

> We may disagree on the nature and scope of institutional autonomy, but we shall never disagree on the matter of its importance and necessity in a democratic society. The present status of government supervision of the private educational institutions leaves much to be desired. Although we agree that the State must be in a position to direct and guide the teaching of the youth, as well as regulate the operation of the educational institutions within its natural borders, it must not create in its centers of higher learning an atmosphere of fear and restriction.

Delegate Clemente, chairman of the 1973 Constitutional Convention's Committee on Education, has this to say about supervision and regulation, and I quote:

> While we are agreed that we need some kind of supervision and regulation by the State, there seems to be a prevailing notion among some sectors in education that there is too much interference of the State in the management of private education. If that is true, we need some kind of reexamination of this function of the State to supervise and regulate education because we are all agreed that there must be some kind of diversity, as well as flexibility, in the management of private education. (Minutes of the November 27, 1971 meeting of the Committee on Education of the 1971 Constitutional Convention, pages 10 and 11.)

There are, of course, areas where the government should supervise and regulate. Even, for example, in the matter of the provision in our Constitution regarding the teaching of the Constitution and human rights, we have made this very general and we would allow both the ministry and educational institutions to provide the details – whether the subjects Constitution and Human Rights should be integrated; whether they should be offered in the secondary or tertiary level or both; whether they should be a one- or two-period subject in high school, a one-, two- or three-unit subject in college – because we feel that it would be best to make this particular provision flexible. Right now, the Constitution is being offered in college, and I think it is in college where the students would be able to best appreciate the spirit and the meaning of the Constitution. But, Madam President, statistics show that only 67 percent finish elementary and 33 percent finish high school. Out of the 33 percent who finish high school, 17 percent go to college and only 13 percent actually graduate, which means that if we concentrate the teaching of the Constitution in college, we will be only reaching between 13 to 17 percent of the student population, as against 33 percent if we offer this in high school.

Now, Madam President, we have added the word "quality" before "education" to send appropriate signals to the government that, in the exercise of its supervisory and regulatory powers, it should first set satisfactory minimum requirements in all areas: curriculum, faculty, internal administration, library, laboratory class and other facilities, et cetera, and it should see to it that satisfactory minimum requirements are met by all educational institutions, both public and private.

When we speak of quality education we have in mind such matters, among others, as curriculum development, development of learning resources and instructional materials, upgrading of library and laboratory facilities, innovations in educational technology and teaching methodologies, improvement of research quality, and others. Here and in many other provisions on education, the principal focus of attention and concern is the students. I would like to say that in my view there is a slogan when we speak of quality of education that I feel we should be aware of, which is, "Better than ever is not enough." In other words, even if the quality of education is good now, we should attempt to keep on improving it.

The third change is from "relevant to the goals of national development" to "relevant to the needs of the people and society" because we want to emphasize that, aside from the societal needs, there are also the individual needs of the students. That is why we are providing in the aims of education the matter of the need for educational institutions to provide liberal education. I think it is not appropriate to simply attach peso and centavo value to education which we often would do if we only consider the matter of national development insofar as this matter is concerned. I will stop here because I think the honorable Commissioners may want already to proceed to the period of interpellation and debate but I would say that I would like to emphasize the fact that throughout this article, the focus of attention of the members of the subcommittee and the members of the Committee on Human Resources, headed by Chairman Villacorta has been the students as well as the teachers.

Thank you.

MR. RAMA. Madam President, I ask that Commissioner Nolledo be recognized.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President. Before I ask questions directed to the chairman and members of the committee, I would like to warmly congratulate them for a job well-done. The committee report to my mind, Madam President, is excellent and I hope it will not, in the course of amendments, suffer from adulteration. With respect to page 1, lines 12-13: "Education is the right of every citizen of the Philippines," I agree with this statement, but when we talk of the right, I understand from the chairman that it is compellable and from Commissioner Guingona, that it is enforceable in court. Suppose a student of a private school is not allowed to enroll by reason of misconduct or that his stay in the school is considered by the administration of that school to be undesirable, does he have a right to enforce his right to education under this situation?

MR. GUINGONA. Madam President, the right to education, like any other right, is not absolute. As a matter of fact, Article XXVI of the Universal Declaration of Human Rights, when it acknowledges the right to education, also qualifies it when at the end of the provision, it says "on the basis of merit." Therefore, the student may be subject to certain reasonable requirements regarding admission and retention and this is so provided in the draft Constitution. We admit even of discrimination. We have accepted this in the Philippines, and I suppose in the United States there are schools that can refuse admission to boys because they are supposed to be exclusively for girls. And there are schools that may refuse admission to girls because they are exclusively for boys. There may even be discrimination to accept a student who has a contagious disease on the ground that it would affect the welfare of the other students. What I mean is that there could be reasonable qualifications, limitations or restrictions to this right, Madam President.

MR. GASCON. May I add, Madam President.

MR. NOLLEDO. Yes, the Commissioner may.

MR. GASCON. When we speak of education as a right, what we would like to emphasize is that education should be equally accessible to all regardless of social and economic differences. So we go into the issue of providing opportunities to such an education, recognizing that there are limitations imposed on those who come from the poorer social classes because of their inability to continue education.

However, in the same light, this right to education is subject to the right of educational institutions to admit students upon certain conditions such as ability to pay the required entrance examination fee and maintaining a respectable school record. When we speak of this right of schools as far as maintaining a certain degree or quality of students, these conditions must be reasonable and should not be used just to impose certain unfair situations on the students.

MR. GUINGONA. Madam President, may I add.

There is already established jurisprudence about this. In the United States, in the case of *Lasser v. Board of Education of New York City,* 239, NYS 2d 776, the court held that the refusal of a school to admit a student who had an average of less than 85 percent which is the requirement for that school was lawful.

In the Philippines, we have the case of *Padriguilan vs. Manila Central University* where refusal to retain the student was because of the alleged deficiency in a major subject and this was upheld by our Supreme Court. There is also the case of *Garcia vs. Loyola School of Theology,* wherein Garcia, a woman, tried to continue studying in this school of theology.

MR. NOLLEDO. Madam President, when the committee talks of the duty of the State to afford education to all citizens, does the word "citizens" include any citizen regardless of age and, therefore, we should include adult education, formal and informal education?

MR. GUINGONA. Yes, Madam President.

MR. NOLLEDO. What does the committee mean by the phrase "socialized fee structure" on line 18, page 2? Does it indicate partial scholarship or full scholarship?

MR. GUINGONA. Madam President, may I call attention to the fact that there is a provision in the draft Constitution on civic, vocational efficiency and other skills training for adult citizens, the disabled and out-of-school youth. So, this is specifically provided for, Madam President.

MR. NOLLEDO. Thank you, Madam President.

The third question is whether the phrase "socialized fee structure" indicates partial scholarship or full scholarship.

MR. GASCON. When we speak of socialized fee structure, what it really means is this: First, we are speaking of socialized fee structure in state colleges and universities. This pertains to tertiary education. The first premise is that income and wealth are inequitably distributed in our country.

Second, education is a right. Therefore, we must equalize and democratize access to quality tertiary education.

So, political and economic inequality is manifested in the access to education. Those with more political and economic clout are able to get into schools that give quality education because they can afford it and they have been exposed to a background which makes them more suitable to the standards of such quality schools.

The socialized fee structure is an attempt to partially redress this problem by providing concrete and alternative systems in the allocation of scarce resources of the State. So the inequality that exists in Philippine society can be partly resolved by granting greater subsidy to those who have less income. Varying levels of subsidy should be granted to different income levels, based on an estimate of the actual cost of education. Charging equivalent fees to a wide range of income brackets should not be done. Socialization must be applied to all income levels, not just to a few. So the whole attempt in socializing tuition fees on tertiary level for state colleges is so that the poor, who normally cannot continue tertiary education, could be provided with all the opportunities to pursue such education. So, in state colleges and universities, the issue is to democratize access for the poor so that they may pursue their education. So this is over and beyond the issue of scholarship. It is actually a new scheme to encourage greater subsidy for the poorer, as opposed to the richer, in tertiary education.

MR. NOLLEDO. On page 2, lines 1 and 2, it is stated that education shall be compulsory through the elementary level. Does this sentence contemplate exceptions? What I mean is that there are cases where children could not go to school because of extreme poverty. We do not talk only of tuition fee expenses but also of transportation expenses. If there should be any violation of this provision, what sanction or sanctions does the Commissioner contemplate, and who will be responsible? Will it be the child or the parent?

MR. GASCON. The first reason why we included the words "compulsory education" is: First, the highest frequency of dropouts occurs in the fourth grade level. This corresponds to the fact that throughout the Philippines, there are large numbers of barrios where the schooling available extends only up to Grade IV. Four out of every five dropouts left school between the third and fifth grades, which are the elementary level. What occurs is retrogression. One out of every five among those who dropped out of school reverted to literacy level below Grade I. Second, the percentage of those retrogressing below Grade I literacy level decreases as the grade level completed increases. Thus, Grade VI is the level where very little retrogression to below Grade I level takes place. Retrogression happens quite soon after a person drops out of the elementary grades. Therefore, the issue of compulsory education is to assure, at least, a level of literacy among the Filipino people because at this point in time, as far as literacy is concerned, the literacy percentage in the Philippines from 1980 to 1985 increased by only 10 percent; while in China, it is by 65 percent and in Indonesia, by 56 percent. So if we do not step up our process of encouraging education, at least, up to the primary level, we may come to a point where a large majority of our population would be essentially illiterate.

MR. GUINGONA. May we know the question about sanctions, Madam President.

MR. NOLLEDO. If this is really compulsory based on the wordings of the sentence, then the word "compulsory" is important because some parents do not like to send their children to school. Does the committee contemplate any sanction?

MR. GUINGONA. The committee itself does not. But there is jurisprudence on this matter. Even in the United States where it has very strict attendance laws, there are students who do not go to schools. And if the Commissioner is talking of sanctions which are criminal in nature, I do not believe there are such sanctions imposed. Perhaps, under the truancy law, they would just be compelled to attend, but nothing beyond that. In the Philippines, we have the words "compulsory education," but this is not directed principally to the students or the parents. In our view, it could also be a mandate to the State that it is its duty to provide free public education up to the secondary level.

MR. NOLLEDO. Madam President, with respect to page 2, line 22, I am intrigued by the phrase "impart liberal education." As a teacher, the phrase "liberal education" would seem to cover two important aspects, curriculum and administration of the school. I notice from the report that the committee is, in effect, Filipinizing Philippine schools and, therefore, it does away with highly competent foreigners who may have a hand in the management of the school. So what does the committee specifically mean by "liberal education"? Is it concentrating the term to the curriculum, as well as to the management of the school?

MR. GUINGONA. Madam President, the answer is that we have considered this from the standpoint of curriculum, although the Commissioner is correct that we have considered the matter of Filipinization. But this is a matter which is divorced from the concept of liberal education as cited by him. This liberal education would not only mean perhaps the return to the basics in the lower levels nor education as is accepted by academe, but the need for value or moral education, which is a reiteration of earlier statements in the section.

In my view, one of the causes of failure in the educational policy is the overemphasis that planners give to the economic factor, the tendency to always attach a corresponding peso and centavo value to plans. Although cost consideration would inevitably be an integral part of formulation and implementation, the fact is that there are also nontangible factors that decision-makers would do well to consider. This is especially true with regard to policies affecting education where the humane and cultural considerations have to be looked into.

There is an ongoing debate whether manpower planning takes into account only the economic demands of the labor market or also those of the student for satisfaction or self-fulfillment. To express it in another way, should the emphasis be on education and that education be on professional and technical growth only or those on the development of the so-called humane person?

MR. NOLLEDO. Madam President, on page 3, lines 12 to 14 state:

> The State shall not interfere with the right of every citizen to select a profession or courses of study, subject to admission and selection requirements.

I am sure that this provision is based on the resolution that Commissioner Rene Sarmiento and I filed with the Commission. But in our original resolution, we did not include "subject to admission and selection requirements."

I would like to know whether the committee feels the way we feel that there is no need for the National College Entrance Examination, because this kind of examination might unduly infringe upon the right of every citizen to select a profession or course of study.

MR. GUINGONA. Madam President, as I have mentioned earlier, Commissioner Rosario Braid would like to comment, and I will also support her comments.

MS. ROSARIO BRAID. I think many of us are aware that the present National College Entrance Examination (NCEE), as an evaluation tool, leaves much to be desired. The criticisms are that it has not been able to develop appropriate tools in relating to the cultural environment, the logic and the needs of children of very deprived communities. In other words, because of the fact that it has not been able to develop these tools, those who have access to more information or media, those who are above average in terms of socioeconomic class have more advantages in getting into college. This is the assumption. However, it acknowledges this problem of adopting these tools.

We need evaluation tools because without these we cannot possibly aspire for quality education. So the problem really lies in developing appropriate tools that would enable a student from a very distant barrio, say in Samar, to be evaluated appropriately, so that the tool should have to be developed according to his cultural environment. We believe that it should be continued. Regarding the Commissioner's question, I think this refers to the problem of limiting certain professions that are overcrowded. So the State should have to exercise some prerogatives in limiting entry to some professions. Madam President, on page 2, lines 27 and 28 say: "integrated system of education relevant to the needs of the people and society." Let us look at the overcrowded professions now: computer education, business and engineering. Our society is not able to absorb the graduates of these professions. There is a great deal of frustration and brain drain or a movement to other professions that do not have any bearing on their training. So this provision is an attempt to make sure that only the suitable ones that the economy can absorb will have entry.

MR. GASCON. Madam President, may I add. First, there is no question that there is a need for some sort of evaluation, especially when we speak of entry to tertiary education. However, it is also the consensus of the committee that as far as the present NCEE is concerned, there should be a thorough review and reassessment and, perhaps, even a reorientation of its implementation and direction. We do not contemplate categorically the abolition of the NCEE. In fact, there is clamor at present from high school students and teachers as well for such a review. Second, that is the purpose of line 14, which states: "subject to admission and selection requirements." We feel that at this point in time, this provision is unfair to students and their parents. Aside from the NCEE, they are oftentimes given other entrance examinations. Therefore, these put into question why there is such an evaluation process or system when in the long run it is not even respected by schools because there are other evaluation systems employed by them. So aside from reorientation and the NCEE, there must be also a rationalization of the whole evaluation program being implemented now by schools and by the State. However, we feel that although the State should encourage different courses in the educational system, it has no right to tell a particular student what he should take because this would be limiting his freedom of choice. So it is still up to the student to choose his profession, but this does not necessarily mean that the State cannot encourage certain degree courses based on its economic developmental needs and goals.

MR. GUINGONA. May I add, Madam President. I presume that as far as private educational institutions are concerned, the matter has already been clarified earlier when we spoke about restrictions and limitations – standards imposed by the schools themselves or physical limitations which will also affect standards. If a school can only accommodate 1,000 students and there are 1,500 of them, there can be a selection process.

I think what the Commissioner probably has in mind is the relationship of the State and the students. It is doubtful whether or not the State would directly prohibit a student from selecting his or her course of study, but this violation of the right can be accomplished through indirect means; for example, nonoffering of courses which are requested or in demand by the students or by the state colleges and universities.

Also, unreasonable governance relative to admission requirements – such as passing the NCEE or other government examinations where these examinations, as pointed out by Commissioner Gascon, may be unreliable and not scientifically validated – could even be discriminatory. For example, they could require those who are going to take Architecture to get a percentile of 60 percent to pass the examination. All others could enter any other course or professional offering with a 30 percent percentile. Or they could prohibit the offering of courses or set very low quotas for admission in certain courses as far as private educational institutions are concerned, not based on standards of facilities but on what the State feels that certain professions or courses of studies should be discouraged.

The action of the State oftentimes is related to decision brought about by bureaucratic planning or to decision on the needs of the country for professionals, skilled workers and others, especially if the State focuses its attention only on the societal need and not on the individual need of the student, as I mentioned earlier. I, of course, support very strongly educational planning, but Dr. Chia Siouw Yue of the National University of Singapore has pointed out, and I quote:

> Manpower planning, as part of overall economic planning, came into vogue in the late 1950's and early 1960's just a couple of decades ago. And as far as underdeveloped and developing countries are concerned, there is a lack of detailed and accurate data. This has resulted in erroneous and unreliable forecast.

For example, the projection by the report entitled, "Higher Education and Labor Market in the Philippines," a UNESCO-sponsored study which was jointly done by MECS, NEDA, EDPITAF, FAPE, et cetera, referring to the formal educational system, stated:

> The greatest projected growth is expected to be in the field of agriculture which will be 20 percent for the period 1978-1982. According to the MECS statistical bulletin, the enrolment in agriculture, in both government and private tertiary institutions, decreased by more than 20 percent, from 56,242 in school year 1979-1980 to 38,651 in school year 1982-1983.

What is important to note here, Madam President, is that in the matter of training of architects or whatever, there is what we call a gestation period. According to Dr. Peter G. Warr of the Australian National University, a delegate to an ASAIHL Conference in the Philippines, this is what happened in Australia: They tried to restrict, so much so that they were able to reduce the number of engineers. Then they found they were in need of engineers, so they again wanted to encourage the study of engineering. But then these people who needed the engineers had to wait because the gestation period would be about six years. In other words, though we need the engineers now, we would have to wait for six years to be able to reap our harvest.

MR. NOLLEDO. Thank you, Madam President. My next question is on page 3, line 27, on religious instruction. I commend the committee for adopting a provision of this kind because when we walk with God, we walk everywhere with Him, whether in or out of school. I was one of the authors of the similar provision in the 1973 Constitution. I know Commissioner Cirilo Rigos must have a hand in the formulation of this provision. I do not know if he objected to or favored this kind of provision, but I am concerned about line 30, specifically the words "teachers designated or approved by the religious authorities of the religion."

Madam President, does the word "teachers" include public school teachers?

REV. RIGOS. We hope it does not, Madam President.

MR. NOLLEDO. The Commissioner hopes, but the words do not prohibit, Madam President.

REV. RIGOS. I am sure the intention of the committee here is not to include the regular teachers in a particular school, Madam President.

MR. NOLLEDO. With respect to page 4, line 1, the word "additional" before the word "cost" did not appear in the 1973 Constitution.

REV. RIGOS. In the 1973 Constitution, the wording is "without cost to the parents or the government."

MR. NOLLEDO. Does this mean, Madam President, that in the exercise of the optional religious instruction pursuant to the committee report there is a cost to the government?

REV. RIGOS. Presumably, the use of electricity and water would be some kind of a cost, but the intention of the committee here is not a major cost. For instance, the salary of the religious teachers will have to be paid by the religious authorities or groups that hire them to teach religion.

MR. NOLLEDO. Thank you, Madam President. I would like to proceed to the same page 4, lines 10 to 12, which states:

> All institutions of higher learning, as well as faculty members and students thereof, shall enjoy academic freedom.

I am glad that the committee included the wo "students" because I would like to make it of reco with the kind indulgence of the Members of this Co mission, that before this proposed provision the conce of academic freedom seemed to be concentrated teachers. According to Professor Arthur Lovejoy, and quote:

> Academic freedom is the freedom of the teacher or research worker in higher institutions of learning to investigate and discuss the problems of sciences and to express his conclusion whether through publication or in the instruction of students without interference from

> political or ecclesiastical authorities or from administrative officials of the institution in which he is employed, unless his methods are found by qualified bodies of his own profession to be clearly incompetent or contrary to professional ethics.

According to Dr. Carlos P. Romulo, and I quote:

> Academic freedom refers to the right of the teacher to teach the subject of his specialization according to his best lights.

And according to Professor Sidney Hawk of New York University, and I quote:

> Academic freedom is the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see fit in the field of their competence.

So based on these definitions which are cited in many textbooks, academic freedom would seem to cover only freedom on the part of teachers and research workers. Now the committee included students of institutions of higher learning to be given the right to enjoy academic freedom. May we ask any member of the committee to explain how these students may enjoy academic freedom. I specifically refer to the scope of academic freedom as enjoyed by students in institutions of higher learning.

MR. VILLACORTA. Madam President, Commissioner Gascon would like to be recognized.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. First, let us define "academic freedom."

Academic freedom is that aspect of intellectual liberty concerned with a peculiar institutional need of the academic community. The claim that scholars are entitled to particular immunity from ideological coercion is premised on a conception of the university as a community of scholars engaged in the pursuit of knowledge, collectively and individually, both within and without the classroom, and on the pragmatic conviction that the invaluable service rendered by the university to society can be performed only in an atmosphere entirely free from administrative, political or ecclesiastical constraints on thought and expression. Recent comprehensive formulations of student academic freedom have evinced a range of concerns that parallel those expressed by proponents of teachers' freedom; for example, freedom of inquiry and expression in curricular activities, in extracurricular student affairs and off-campus, procedural fairness in disciplinary proceeding and participation in the governments of the institution.

The foundations of academic freedom in the United States are the following: 1) the philosophy of intellectual freedom, 2) the idea of autonomy for communities of scholars and 3) the freedoms guaranteed by the Bill of Rights in the American Constitution as interpreted by the courts. Why must students enjoy academic freedom? It is necessary to define a university and its purposes: First, literally, the word "university" comes from the word *universitas,* which means an association, community or corporation considered in its collective aspect. It was used to denote diverse groups ranging from municipal corporations to an association of captives in war. Later, it signified an association in the world of learning, which corresponded to a guild in the world of commerce, a union among men living in a *studium generale* and possessing some common interest – to protect and advance their interest. Later on, the *studium generale* was the center of learning. Students and teachers within the *studia* organized themselves into *universitates* in order to secure the mutual protection of their members. By the 14th century, the importance of the scholarly guilds had so increased that the word "university" became the equivalent of *studium generale.*

Now what are the components of such university? The university is made up of the institution itself, including the administrative authorities; the faculty which is composed of teachers and professors; and the students. As members of the university, students must also enjoy academic freedom in order that the purpose of the university may be effectively achieved. According to Justice Makasiar in his dissenting opinion in *Garcia vs. Faculty Admission Committee, Loyola School of Theology,* 68 SCRA, 277 and I quote:

> It should be stressed that the academic freedom thus guaranteed is not limited to the members of the faculty nor to the administrative authorities of the educational institution. It should also be deemed granted in favor of the student body; because all three – the administrative authorities of the college or university, its faculty and its student population – constitute the educational institution, without anyone of which the educational institution can neither exist nor operate. The educational institution is permitted by the State to exist and operate, not for the benefit of its administrative authorities or faculty members, but for the benefit of its studentry.

Denial of student academic freedom constitutes a violation of the equal protection clause of the Constitution. Only scholars, it is claimed, are entitled to that privilege – the freedom to inquire on one's own. As Sir Erick Ashby has pointed out, the meaning of the word "scholars" certainly includes those whom we now call undergraduate students, the *de jure* status of whom is that of members of a corporation devoted to higher learning. In the course of the discussions concerning academic freedom in the 1971 Constitutional Convention, Delegate Ledesma admitted that the term "scholar" must also include students. Both teachers and students assume the role of learners. Although they vary in the degree of information they have already acquired, there is no pressing reason, therefore, why an individual should be curtailed in his attempt to attain adequate knowledge on the poor excuse that he has much more to learn. The difference between academic freedom and other freedoms of expression; for example, freedom of assembly or speech, is that there is a necessary distinction to be asserted to academic freedom as a separate freedom or right. The problem to be contended with is the enjoyment by students within the university of the same freedom enjoyed by other citizens outside of the university.

There are three theories, none of which favors academic freedom for students:

1) Privilege Theory. It maintained that school attendance is a privilege. Under this theory, students are deemed to have abandoned some rights once they have entered the university.

2) *En Loco Parentis* (in place of the parents). This theory is based on the assumption that the school is a surrogate parent. However, the courts and too often the schools have interpreted that *en loco parentis* doctrine confers upon the school the powers of the parent without accompanying responsibilities except for the protection of the student from physical injuries.

3) Contract Theory. By this act of registration, the student could be deemed to accept the regulations of the university. In return for tuition and the observance of the regulations by the student, the latter enjoys the right to continued attendance subject to the breach of the contract. The burden, however, of proving breach of contract is upon the student. Ambiguous terms in the contract are decided against him and the institution may negate any implied right of the student. However, in the Philippines, none of these theories is controlling.

In the case of *Malabanan vs. Ramento,* 129 SCRA, 359, 367 to 368, 372 – regarding the right of petitioners who were officers of the Supreme Student Council of Gregorio Araneta University Foundation to peaceable assembly and free speech – the court said:

> Petitioners invoke their rights to peaceable assembly and free speech. They are entitled to do so. They enjoy like the rest of the citizens the freedom to express their views and communicate their thoughts to those disposed to listen in gatherings such as was held in this case. They do not, to borrow from the opinion of Justice Fortase in *Tinker v. Des Moines Community School District,* "shed their constitutional rights of freedom of speech or expression at the schoolhouse gate."

So the freedoms enjoyed by these citizens outside of the university continue within the walls of the university. The right to peaceable assembly and free speech are guaranteed to students of educational institutions. Necessarily, their exercise to discuss matters affecting their welfare or involving public interest is not to be subjected to previous restraint or subsequent punishment, unless there is a showing of a clear and present danger to a substantive evil that the State has the right to prevent.

MR. NOLLEDO. So, am I right if I say that academic freedom is enjoyed only by colleges and universities, but not by high schools?

MR. VILLACORTA. Yes, the Commissioner is right, Madam President.

MR. NOLLEDO. Thank you.

My last set of questions, Madam President, is with respect to page 4, lines 28 to 32. I direct my questions specifically to Commissioner Guingona who is a lawyer. Under the Article on the Legislative, all lands, buildings and improvements, et cetera, directly used by educational institutions shall be exempt from taxes, and the exemption, as already ruled by the Supreme Court, shall refer only to realty tax. There is no qualification on whether the institution is stock or nonstock. Am I right, Madam President?

MR. GUINGONA. Yes, the Commissioner is right.

MR. NOLLEDO. In the committee report, it is stated that nonstock, nonprofit educational institutions shall be exempt from taxes and duties. Am I right if I say that the "taxes and duties" here are not limited only to realty taxes?

MR. GUINGONA. Yes, the Commissioner is right.

MR. NOLLEDO. It is also stated in the report that proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders' dividends as may be provided by law. Therefore, the exemption of proprietary educational institutions shall be dependent upon the existence of law. Am I right, Madam President?

MR. GUINGONA. Yes, the Commissioner is right.

MR. NOLLEDO. And that the exemption that may be granted to proprietary educational institutions shall not also be limited only to realty taxes?

MR. GUINGONA. Yes, subject to the qualification of limitation of stockholders' dividends.

MR. NOLLEDO. And that these provisions will not alter the first statement that all lands, buildings, et cetera directly used for educational purposes shall be exempt from realty taxes.

MR. GUINGONA. Yes, Madam President.

MR. NOLLEDO. Thank you very much.

MR. GUINGONA. Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I ask that the well-dressed Commissioner, Commissioner Tingson, be recognized.

MR. SUAREZ. May I be recognized for a parliamentary inquiry, Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President. I notice that the article now being discussed is divided into five substantial topics: education, science, language, technology and arts and culture.

MR. GASCON. It is divided this way: education, language, science and technology and arts and culture. So there are four basic parts.

MR. SUAREZ. Thank you. Be that as it may, Madam President, there may be confusion in connection with the effective interpellation by the Commissioners. So it is respectfully suggested that interpellations be made on a methodical basis.

I suggest, therefore, that interpellations at the moment be concentrated on education before we proceed to the other subjects, Madam President. In other words, let us get through first with the subject on education before we move on to the other subject.

THE PRESIDENT. What does the chairman say?

MR. VILLACORTA. Madam President, the committee accepts the suggestion.

MR. SUAREZ. Thank you, Madam President. Therefore, may we respectfully request the Floor Leader to take up the necessary arrangements.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. I would be very happy to limit my questions on the subject "education," but I would like to reserve my right to also ask questions on the other subjects later.

THE PRESIDENT. The Commissioner will please proceed.

MR. TINGSON. Madam President, I am impressed by the fact that the committee takes into consideration the wholeness of man. On page 2, lines 7 to 8, the committee speaks of formal, nonformal, informal and indigenous learning system. On Section 2, lines 18 to 20, it speaks of strengthening the ethical and spiritual values; encouraging critical and creative thinking; promoting scientific, technological and work-oriented efficiency; and imparting liberal education.

I wonder if, in describing the intention of Section 1, it is right to say something like the following: "Education, which is the harmonious development of the mental, physical, moral and spiritual faculties of the individual, is the right of every citizen of the Philippines." Would this be describing, more or less, the intent of the committee, Madam President?

MR. VILLACORTA. Madam President, we are open to suggestions, but I think Commissioner Gascon has something to say.

MR. GASCON. I believe the attempt is to give a general definition of education. In fact, we had been debating among ourselves the definition of education and generally, it would be along the same line. However, for record purposes, perhaps, it would be best that we define this harmonious development of the mental, physical, moral and spiritual faculties. At the proper time, we may perhaps consider it.

MR. TINGSON. Thank you very much, Madam President.

MR. GASCON. Madam President, we feel that the term "education" as it stands may, in a sense, be open to varying definitions and perspectives as we go along history. But we believe that education is a continuing process. It does not end in the school.

MR. GUINGONA. Madam President, I agree with the Commissioner, and I suppose the members of the committee also agree that education is something that covers many aspects – social, moral, intellectual, physical and so forth. As mentioned by Commissioner Gascon, perhaps, it would be better just to mention this as a sense of the committee rather than include it in the report.

MR. TINGSON. That is what I am trying to do, Madam President. I am impressed by the fact that the report covers the whole gamut of education, that is why I am suggesting the phrase "harmonious development of the mental, physical, moral and spiritual faculties of the individual," which, obviously, is the thrust of the committee report.

MR. VILLACORTA. Madam President, may we ask the Commissioner to elaborate on the concept of harmonious development.

MR. TINGSON. I would like to do that during the period of amendments, because I do not want to take too much time now since there are other interpellators.

MR. VILLACORTA. It is all right with us, Madam President.

MR. TINGSON. Madam President, page 3, lines 2 to 11 states:

> Private educational institutions shall be owned and administered solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, unless provided by law.

I have been asked by some friends to ask clarification from the committee about this. Madam President, we have the International School here in Manila, the Brent School in Baguio and the Faith Academy in Cainta, which are owned or run mostly by American teachers and missionaries. The purpose of these schools is to give secondary education to their children in the same category the American schools are giving so that when they go back to their country they will be eligible right away to enter college. Does the provision on lines 8 to 11 apply to these schools?

MR. VILLACORTA. Madam President, the last sentence, which says that this provision shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, will apply to those schools mentioned by the Commissioner; namely, IS, Brent School and Faith Academy. I think I speak for the committee when I say that that is the contemplation and sense of this sentence.

Commissioner Gascon would like to elaborate on the philosophy behind this particular provision.

MR. GASCON. The basic principle that we would like to assure in this Section 2(c) is that educational institutions play a role in instilling values and, consequently, the molding of public opinion. It is especially easier to do in educational institutions than in mass media because while the audience of the latter is the public regardless of age and education, the majority of students especially in the elementary and secondary levels are children who are still in the process of formulating their own values, and, therefore, have none of their own by which they may compare with the ones that are presented to them by their educators. Children are more impressionable and more susceptible to the unconditional acceptance of moral, ethical and national values. Furthermore, it seems absurd that the State protect those children who do not attend school by placing restrictions on the ownership of mass media, but mass media does not afford the same kind of protection to those children who are supposed to benefit from education. So basically, the intent, when we speak of educational institutions being wholly owned by Filipinos, is that in the rearing of Filipino citizens, Filipino values are encouraged which are elaborated in Section 2(a). However, this does not mean that foreign citizens living in our country cannot avail of specialized education for their particular nationalities, which is the case at present in IS (International School) and Brent. We have to safeguard the interest of our future generations by assuring that education be directed to serve Filipino interests.

MR. TINGSON. Thank you, Madam President; that has been very helpful. Lines 25 and 26, page 3, state:

> The study of the Constitution and human rights shall be part of the curricula in all schools.

That is very good because that is one of my resolutions also, Madam President. I am glad the committee took cognizance of my resolution about studying the Constitution and human rights. I wonder if the committee will not be willing to go further than that. This is what I would probably suggest by way of an amendment: "The study of the Constitution, human rights, the life and works of our national hero, Jose Rizal, shall be part of the curricula in all schools." The reason for this, Madam President, is that our national hero is the very embodiment of what is inspiring and uplifting in our draft Constitution. The life and works of Jose Rizal is precisely a very specific study of what is humanizing and uplifting in the so-called subject human rights. We study the corrective as well as the instructive portions of the declaration of human rights. I, then, would very strongly urge the committee to please consider the life and works of Jose Rizal, being our revered national hero, as part of the curricula of the schools because after all this is already taken up as a subject in English classes of Grade V and VI pupils, but for only one semester. In secondary schools, the life and works of Rizal is not taken up as a formal subject, not even as an elective, save in some instances when the textbooks on literature contain some stories about the hero. The tertiary curriculum offers a three-unit course on Rizal, which is being the subject of a discussion for its optional offering. Of course, there is no debate about the idealism and heroism of Jose Rizal. That is precisely why in all plazas in every city, we have statues of the hero. We even change the word "barrio" to "barangay." How can we speak of Jose Rizal as a hero, if we do not even know him as a person and how can we know him as a person unless our children are at least encouraged or required to study the life and works of our national hero? Monuments, parks and schools named after the hero hardly speak of the supreme tribute expressing the collective sentiments of the Filipino people.

If we provide a three-unit course for his life and works in college, we assume that only the college students or a group of society know about him. Does not his status as a national hero render him the honor and privilege to be known by all people in a country that accepts him as such? As a matter of fact, what a joy and an honor it is to know that the life and works of Jose Rizal is being studied in the Soviet Union, in Spain and in Indonesia.

If I am not mistaken, the works of Jose Rizal exude masterful lyricism of his supreme protest against injustice, dazzling and fascinating with literary genius in the *Noli Me Tangere* and *El Filibusterismo.* These works verily relive the very culture and values of our people. If I remember right, when the late Don Claro M. Recto and Jose P. Laurel, the late father of our own esteemed colleague here, were Senators, they succeeded in putting into law the requirements that the life and works of Jose Rizal be studied in our schools. If we can study Shakespeare and the works of Palanca awardees, do the works of Rizal not hold ground and elicit the same esteem and status? Pardon the analogy, Madam President.

The life and works of Jose Rizal should be offered in the elementary and secondary school curriculums, preferably in the English classes. The three-unit course on Rizal in the tertiary level, taking into account the academic offerings provided for in the elementary and secondary levels, should now deal in his works for literary appreciation and discussion with reference to the current perspectives and directions of the present society.

And finally, Madam President, I feel that the Textbook Board could easily prepare and publish books designed for individual use on the three levels.

Would the chairman consider during the period of amendments the inclusion on line 25 of not only the study of the Constitution and human rights as pieces of paper containing truth but also the life of somebody who is the living embodiment of the two, so that we could produce citizens that will live up to the visions, patriotism and nationalism of our national hero?

MR. VILLACORTA. I think Commissioner Quesada, Madam President, would like to respond to that, followed by Commissioner Rosario Braid.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. The problem of enumerating all the areas that should be included in the Constitution would possibly open the floodgates to many other proposals. As a matter of fact, there has already been the consideration that we just limit it to the study of the Constitution and exclude human rights since human rights is already included in the Constitution. I am one of the proponents of the inclusion of the study of human rights, but if this is going to be the entry point for the inclusion of many other topics, such as the one the Commissioner is proposing, then we would not want to really extend this to that possibility. However, the committee will look into the Commissioner's proposal.

MR. TINGSON. I would propose then, at the appropriate time, Madam President, just the study of the Constitution and the life and works of Jose Rizal. I would appreciate it very much if the committee could consider such a proposal.

MR. VILLACORTA. We will seriously consider the Commissioner's proposal.

MR. TINGSON. Thank you very much.

MR. VILLACORTA. Commissioner Rosario Braid, Madam President, would like to be recognized.

MS. ROSARIO BRAID. I think in our consideration, we noted that the lives of our heroes, including Jose Rizal, are adequately covered in social studies subjects in both elementary, secondary, and even the tertiary education. I think the fact that in our aims we have focused on nationalism places a mandate to the Textbook Board and other instructional material agencies to produce more materials on national heroes. If the Commissioner wishes we could take it up later, but I think with all two or three provisions here, these would lead to more new curriculum development that would focus on national identity of heroes and institutions.

MR. TINGSON. Thank you.

Madam President, if we are about to suspend the session, it is all right with me. However, I would like to reserve about two or three more questions after the suspension of the session.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended until two-thirty in the afternoon.

It was 12:15 p.m.

RESUMPTION OF SESSION

At 2:53 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. May I move that we continue the consideration on the Article on Education.

THE PRESIDENT. May we request the honorable chairman and members of the committee to please occupy the front desk.

MR. SARMIENTO. Madam President, may I ask that Commissioner Tingson be recognized.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Thank you, Madam President.

I have only two or three more questions on the heading "Education."

At the time that we suspended the session this noon, Madam President, I was mentioning to the committee that at the proper time I would propose an amendment to Section 12(g) regarding the study of the Constitution and human rights to be part of the curricula in all schools. My proposed amendment consists in adding the study of the life and works of our national hero, Jose Rizal. Perhaps, I should restate that because I do not want to be misconstrued or misunderstood that I am, in any way, denigrating the importance and the historical contribution of the lives of our other national heroes whether in the past or in the recent past. My amendment will read this way: "The study of the Constitution and human rights AND THE LIVES OF OUR NATIONAL HEROES shall be part of the curricula in all schools." I had asked the committee about this amendment and I was told to formulate it and the committee members will consider it later on. Am I right, Mr. Chairman?

MR. VILLACORTA. That is right.

MR. TINGSON. Thank you very much.

My next question is on page 4, Section 5(b) which states:

> Nonstock, nonprofit educational institutions shall be exempt from taxes and duties. Proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders' dividends as may be provided by law.

It seems to me that the latter sentence of that paragraph could be a way whereby private educational institutions could evade the payment of taxes and duties. My question really is: Why do we not just go ahead and mention something like: "All educational institutions shall be exempt from taxes and duties." We did state this provision in the 1935 Constitution.

Section 5 of Committee Report No. 29 is amended in fairness to private schools which perform for the government what the government has to do and, that is, to educate the youth. I agree with that naturally, because I believe in the contribution of private schools towards the overall adequate education of our young people. And as I suggested in the opening of my interpellations this morning, education, in the light of what the chairman intends to say in this very good report, is the harmonious development of the mental, physical, moral and spiritual faculties of an individual.

I am sorry to say that some of our public schools do not seem to give much importance to the moral and spiritual development of the faculties of the individual, but practically all private schools do, especially the ones owned and run by the religious sectors of our country. I do believe in the work of private schools. In other words, tax exemption is just one form of government subsidy for students in private schools. Private schools are contributing towards the good of our country by helping the government educate our children which perforce must be done if we expect a country that would truly be progressive and would deserve its place among the concert of free, independent, educated and democratic nations of the world. This subsidy is a partial reimbursement of the taxes that some parents pay to support state schools. We are referring to parents who do not send their children to public schools because they believe that it is better to send their children to private schools and at the same time help the government support public or state schools.

I understand that the latest FAPE (Fund for Assistance to Private Education) statistics placed 90 percent of tertiary students in the care of private schools. Again, my question is why do we not just simplify that Section 12(b) state the same provision as in the 1935 Constitution which says: "All private educational institutions shall be exempt from taxes and duties"?

MR. VILLACORTA. We are open to different proposals on this section. Actually, there are some Commissioners who feel that the second sentence of this paragraph should not even be included, and that tax exemption should be confined to nonstock, nonprofit educational institutions. The Commissioner seems to espouse the opposite view, that even proprietary educational institutions should be entitled to tax exemption. So, at the appropriate time, the Commissioner may propose his amendment and we shall throw it to the body.

MR. TINGSON. I would agree with that; but I would make exceptions, although I would say that generally. But some of our knowledgeable fellow Commissioners who are lawyers could probably put some kind of a control. Hence, an educational institution which is obviously nothing but a money-making institution should not enjoy such privilege of being exempted from taxes and duties. How it should be done is not yet clear in my mind as of now. But in due time, I would try and present that amendment.

MR. VILLACORTA. Thank you, Madam President. Commissioner Rigos would like to be recognized.

REV. RIGOS. Madam President, the second sentence was placed here because the committee received information that there are a number of private institutions that are making a lot of profits. The committee felt that we will encourage schools to engage in education not primarily for the sake of profit. Therefore, the inclusion of this second sentence here will encourage these private schools to limit the dividends that go to the stockholders. Hence, that will partly achieve the aim of this paragraph.

MR. TINGSON. Madam President, while Commissioner Rigos has the floor, may I ask him my last question.

Section 12(h) on page 3 states:

> At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools by teachers designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government.

Do I understand that that latter phrase "without additional cost to the government" means that public school teachers will not be allowed to teach religion in their classes? Should religion be optional?

REV. RIGOS. That is the thinking of the committee.

MR. TINGSON. Thank you very much.

MR. VILLACORTA. Commissioner Rosario Braid would like to say something.

MS. ROSARIO BRAID. May I go back to the Commissioner's question on page 4, lines 28 to 32, about proprietary institutions. His question is: Why are we encouraging nonstock, nonprofit educational institutions? I will also go back to Section 5(a) which shows the intent of this committee report to promote educational foundations and cooperatively owned educational institutions.

Let me cite some facts here which state that 92 percent of higher education is in the hands of private schools. Also, there is no evidence which shows that distributing schooling, largely on the basis of parents' social position and income, equalizes the distribution of income and wealth. Why is this so? It is because those who go to private institutions requiring high tuition fees are the ones who perpetuate social inequality.

So, the findings of the study is that education does not perpetuate social equality even if we expand. In other words, democratization of education does not contribute to social equality simply because what happens is that the privatization of higher education has maintained the existing income disparities as a result of high rates of returns accruing to graduates of private institutions requiring high tuition fees. So, what is shown here is that there is a positive correlation between education and income.

It suggests, therefore, that private financing of higher education tends to enhance inequality from one generation to another. So this study clearly indicates that tertiary education in most proprietary institutions, especially those that charge very high tuition rates, has contributed to social inequality.

So, that is why we encourage nonstock rather than proprietary institutions.

MR. GASCON. Another point that we would like to emphasize when we speak of encouraging nonstock and nonprofit institutions is that education is primarily a public function. Therefore, since it is primarily a public function, the State has the primary responsibility to provide for such. Thus, encouraging unnecessarily proprietary schools is veering away from that basic principle because we are making education a profit-making business instead of being a public function. That is what we are trying to avoid. We are hoping that through these provisions in the Constitution, the present educational system will not be commercialized, and to encourage the State to perform its public function which is to provide all the citizens education. That is the basic theme. So, we feel that we should discourage profit-making schools and encourage nonprofit, nonstock schools in accordance with the theme that this is primarily a service and not a business.

MR. TINGSON. There are private schools that are fortunately making good profits and yet at the same time, they are doing commendable work by way of helping educate our young people in all levels. How would the Commissioner feel towards schools that are not primarily for profit-making and yet, fortunately, are making good profits?

MS. ROSARIO BRAID. May I answer that? I think there has been a considerable discussion in the committee on the need to suggest to Congress, as well as the various aggrupations of educational institutions, to add other criteria for the accreditation of schools that are existing. In other words, those schools whose graduates go out to the countryside to serve the people and have contributed to national development will be one indicator by which an institution gets positive accreditation. Hence, on the basis of this, they will be given preferential treatment in terms of tax exemption that we have indicated in this section.

MR. TINGSON. Thank you very much.

Madam President, my last question still has to do with the last paragraph of page 3, and that is the optional religious instruction in public schools. Yesterday, we received a communication from His Eminence, Ricardo J. Cardinal Vidal, Archbishop of Cebu, and 26 other signatories. I do like what they say and I read:

> There is a growing consensus between believers and nonbelievers that spiritual deprivation lies at the root of most problems, whether personal or social, and it is the child more than anyone who suffers the devastating consequences. Denouncing the spiritual void confronting the child is important; providing the child with the opportunity for harmonious development and spiritual growth is valued as highly physical, and intellectual growth is more important still for that child's spiritual rights and it is up for the adult to promote them. We, representing various regions, provinces and sectors of the nation, realizing that value formation is the primary task of education today, make the following proposal to the Constitutional Com-

mission: Moral and religious values being constitutive of integral human formation should be made curricular in our education system.

I am impressed with this proposal because I feel that our optional religious instruction is really tolerated by us and that is why it is made optional as was provided in the 1935 and 1973 Constitutions. I have always felt that somehow we are not succeeding very much in the avowed purpose in allowing optional religious instruction. The avowed official reason is to help develop good, law-abiding, morally upright citizens of our country. The fact is that they can become good citizens of our respective churches. My understanding is incidental to it: That the primary purpose of the optional religious instruction is to produce good, taxpaying, honest citizens of our country.

In the light of the proposal of the good Cardinal and 26 other outstanding religious leaders which states that moral and religious values, being constitutive of integral human formation, should be made curricular in our education system, I have been trying to crack my mind on how this proposal can be implemented. It is a big order but it could be implemented. I am wondering if we could somehow attach the implementation of this advice, or this particular value formation that they desire to include in our Constitution through our optional religious instruction by having one common textbook and one common subject. We cannot expect children of other religions to attend the optional religious classes that are being taught by Roman Catholics. Moreover, we cannot expect children of the Catholic families to attend similar classes that are being attended by non-Roman Catholics simply because we are not sure of what is taught there, which we may not agree with. I am just wondering if we can come up with the idea of having a common textbook. I suggest the Holy Scriptures for the Christian community and the Qur'an for the Muslims of Mindanao. The subject matter would also be common to all – the life and teachings of Jesus Christ Who is the common Lord to both the Roman Catholics and the others; and we can have the life and teachings of Mohammad for all the Muslims of Mindanao. With this suggestion we make the so-called optional religious instruction much more relevant and more acceptable to our people.

I am just wondering if it is not a crazy idea. If one would tell me outright that it is a crazy idea, I would not waste the time of the committee even in trying to study that provision. But I do not think it is so because I admire Pope John XXIII. If I am not mistaken, it was Pope John XXIII who accented ecumenism about 23 years ago. It was not Pope John XXIII who originated ecumenism but it was our Lord when He said in the Gospel of John: "By this shall all may know that you are my disciples if you love one another." Why, if we 48 Commissioners in this Concom truly love one another, there would be no walkouts! There would be no petty family feuds and quarrellings among us. In major things, let us have unity; in minor things, let us have liberty. However, in all things we certainly can practice honesty and charity. What can bring all these things about? Probably it is not only our sectarian doctrinal teachings which may not be easily understood by our elementary and high school pupils but it may be through the common textbook as I suggested a while ago. This common textbook, the Holy Scriptures or the Qur'an and the life and teachings of Jesus Christ, can be the basis of our optional religious instruction.

Members of the committee, there is no greater sermon in the entire world than the sermon on the Mount. There is no greater thing for our young people to read and study than the Beatitudes. What Commissioner Nieva read just three days ago was a beautiful scriptural literature, and I quote:

> The Lord is my Shephered, I shall not want; He maketh me lie down in green pastures. He leadeth me beside still waters; He restoreth my soul. He leadeth me in the paths of righteousness for His name's sake. Even though I walk through the valley of the shadow of death, I will fear no evil.

Throughout the Holy Scriptures from Genesis to Revelation, the words "Fear not" are found 365 times. Does everybody know that? What a beautiful thing for our young people to realize that there are 365 days in the year; that every day of the year, we can say this prayer as quoted by Commissioner Monsod, "Lord, help us to realize that today is the first day of the rest of our lives." Then all of us would take to heart one "Fear not" for that particular day. In war or in peace, in famine or in abundance, we can take hold of one "Fear not." What I was trying to say is, this is something that may be simple, and yet easily understood by our young people in the implementation of this optional religious instruction. This will help more than anything else not to divide us, but to unite us and truly make an ecumenical country like our country. Masyadong relihiyoso tayo rito sa Pilipinas; relihiyoso sa salita, ngunit hindi sa puso; relihiyoso sa pangalan, ngunit hindi sa katotohanan. In my sweet Ilonggo, "Masinimbahon apang indi matarom."

We are the most religious and the only Christian nation in the Far East; and yet according to the report of the United Nations Organization, we have more smugglers unlike in many countries surrounding us. Yet these neighboring countries are not even pretending to be Christians. I think we are missing something important somewhere. I wonder if I could make that amendment later on.

THE PRESIDENT. I am sorry, but Commissioner Tingson has already consumed more than 20 minutes.

REV. RIGOS. I thank the Commissioner for his sermon, but if he is connecting the proposal of His Eminence, Ricardo Cardinal Vidal, to optional religious instruction, that is taken care of on page 3, Section

12(h) which we discussed a while ago. But if the Commissioner wants to go over the proposal of the good Cardinal, thelatter wants it included in the curricula of our schools. However, the Committee has to study that proposal.

Section 2(a), on page 2, states:

> All educational institutions shall inculcate nationalism, love of fellowmen and respect for human rights, teach the rights and duties of citizenship, instill political, health and ecological consciousness and service to society, strengthen ethical and spiritual values, develop moral character and personal discipline . . .

So even here, the committee has not forgotten to encourage all educational institutions to strengthen ethical and spiritual values, but this is not self-executing. We will probably need some kind of a law to be passed by Congress on how to make this more concrete. And so, perhaps the proposal to make ethical and spiritual values a part of the curriculum will be better discussed in the Congress rather than in this Commission.

MR. TINGSON. Thank you.

I was speaking about optional religious instruction and I believe that what I said was apropos of that particular subject.

Madam President, may I categorize what I said a while ago; it is not a sermon, but a speech from a Commissioner. There are other speeches much longer than what I delivered. I do not want our fellow Commissioners to think that I was trying to sermonize them. In my speech, I was wondering whether or not my amendment on that score would be later on entertained by the committee. However, whether the committee will consider it or not, may I still have the privilege to formulate that amendment and present it to the body?

REV. RIGOS. Yes, thank you very much.

MR. SARMIENTO. Madam President, may I ask that Commissioner Bacani be recognized.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Speaker Laurel here is very naughty. He said, "Not another sermon." *(Laughter)*

I would really like to ask a few questions. First of all, I congratulate the committee for the very fine work. Also, may I second what Commissioner Tingson proposed that we have a brief definition of education because we are trying to point out that the State shall give priority to education. But if that is nowhere defined, then we will not know really what we will be giving priorities to. I understand that we have some elements in Section 2 for such a definition, but I will support also the definition which Commissioner Tingson proposed this morning.

Let us start with Section 1. There is a listing here of the purposes of education. At an appropriate time, would the committee be willing to add one more purpose to this in view of our present situation which might be a prolonged one and in view also of the constitutional provision later on on the autonomous regions? I would like to bring this to the committee's consideration. Instead of simply saying "for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom," all of which are very laudable, will the committee consider at a particular time the phrase "ACHIEVING NATIONAL UNITY" as one of the purposes of education in the Philippines?

MR. GASCON. Yes, we will consider such proposal at the proper time.

MR. VILLACORTA. Yes.

BISHOP BACANI. Second, the Commissioner opened up a very broad and daring distance when he speaks of education as the right of every citizen of the Philippines. I think that is very broad. In fact, Commissioner Gascon said this morning that education should be accessible to all in spite of social and economic differences.

When one speaks of the right to education, may I ask: Does this include the right to choose where and how I am to be educated?

At this juncture, the President relinquished the Chair to the Honorable Francisco A. Rodrigo.

MR. VILLACORTA. Does Commissioner Gascon wish to answer that?

MR. GASCON. When we speak of education as a right, the primary concern is the issue of providing access to education.

BISHOP BACANI. Yes.

MR. GASCON. As far as the choice of where and how one is to be educated is concerned, as a principle, that would hold. However, for practical purposes, the choice of a certain student residing in a particular area on where to study is limited by the schools that are available in that particular area. However, one can go to another school which he prefers outside if given greater opportunity, let us say, the means of transportation. That is a possibility. Our hope is, when we consider education as a right there is also a correlative duty of the State to provide for such. So, as far as the State is concerned, it should equalize access to all so that the exercise of that right will be accorded to every citizen.

BISHOP BACANI. Therefore, the inequities actually to be found in the present system of education should somehow be corrected.

MR. GASCON. That is right.

BISHOP BACANI. This is not meant to belittle the public schools. I think the instruction that is given in most public schools is really of a lower quality than that given in a comparative number of private schools. That is why some parents would rather choose to enroll their children in private schools.

MR. GASCON. Actually, this committee report is a critique of that particular situation. We envision a situation where there is no longer any difference between what is taught in public schools and those that are taught in private schools. So, the choice will be real.

MR. VILLACORTA. I would also like to point out that Section 1(c) on education says that the State shall promote quality education, not just education but quality education. The Commissioner mentioned the difference in the quality of education between the public schools and the private schools. For all we know, it could be the other way around in the future as it is in countries like England where public schools generally have a higher standard of education than the private schools.

BISHOP BACANI. Yes.

MR. VILLACORTA. But I am curious why the Commissioner asked that question.

BISHOP BACANI. My presupposition is this: The parents are the primary educators of their children; the role of the State here is only subsidiary; it is auxiliary to them. But the main help to the parents regarding this matter comes really from the State, and, of course, from the Church also. What I am trying to drive at is this: At present, the situation is really that most parents usually prefer the private schools to the public schools if the parents really have the wherewithal or the money to spend. What I would like to ask may seem to be a bold idea. In view of this right that the Commissioner vindicates for the children and for the parents, would he also advocate a subsidy to parents so that they can send their children to whichever school they wish?

MR. VILLACORTA. That is indeed a bold idea and we have to give consideration to the serious financial constraints of our government, not only in the immediate present but in the future. Those within this Commission and in the educational sector are skeptical about the ability of the government to meet the cost of free public education up to the tertiary level. How much more the idea of giving subsidy to parents to be able to send their children to better schools?

MR. GASCON. I would like to ask a question. When we speak of the State giving subsidy to parents so that they can send their children to school, this implies that we wish to provide the parents the opportunity to send their children to private schools, let us say, through scholarships, because they feel that the education given in public schools is of low quality and is inadequate. Is that correct?

BISHOP BACANI. Yes.

MR. GASCON. Our attitude on what has to be done is not to direct the parents or to encourage the parents to send their children to private schools but rather for the State to improve public education. So, when the State really gives priority to education, it necessarily follows that it must improve its public elementary, secondary and even tertiary education which provide greater access to the poor. Therefore, the issue of opposing private schools to public schools will become moot and academic if the State is vigilant enough in improving the quality of education in public schools. So, there would be no necessity to subsidize parents sending their children to private schools because the education given them in public schools would be sufficient. That is the idea.

BISHOP BACANI. Yes. In President Aquino's recent speech in Cagayan de Oro when she was conferred a doctorate in Xavier University, she mentioned a move which the government has already taken. This step has already been done. Instead of building schools, they are going to send the students to Catholic schools paid by the government because the move is less expensive. Because of that, I see the purpose of Section 1 (b), the provisions on education. I want to suggest at the proper time that the State shall establish and maintain a system of free public education at the elementary and secondary levels and provide such other measures that will render education at the elementary and secondary levels accessible to all and at the tertiary level to those who are qualified.

MS. ROSARIO BRAID. When the Commissioner referred to the speech of President Aquino, he is referring to an experiment that has been started in the elementary and secondary schools called "service contracting." It is a practice in communities where the enrolment in the public schools has exceeded the capacity of the schools to respond to the problems of enrolment, like lack of classrooms, lack of teachers and others. Hence they contract these quality private educational institutions within the community to service these students and they found out that the cost per student is almost the same as the cost of hiring new teachers or building new classrooms. The "service contracting," although starting on the primary and secondary level, could extend to tertiary education. This is a complementary scheme, but the attitude of the committee is to strengthen public education through various ways – manpower development, strengthening of curriculum materials, et cetera.

Thank you.

BISHOP BACANI. So, the bias of this is towards the strengthening of public education rather than facilitating the free choice of the parents and the children to enter into schools of their choice.

MR. GASCON. No. The point is we should reemphasize the responsibility of the State to provide for education. At this point in time, as has been mentioned already, prior to the Marcos regime, the government was allocating as much as 35 percent of its national budget to education but it went as low as 8 percent during the Marcos regime. What we would like to do is see a situation where education really receives the highest priority by the State. The State exercises one of its major functions by providing a system of public education to all without necessarily neglecting private education.

BISHOP BACANI. And may I also add, without necessarily foreclosing the possibility later on of subsidizing if they want to, that there is a provision almost similar to that in Section 1 (c) but it seems to be in view of quality education.

MR. VILLACORTA. Mr. Presiding Officer, Commissioner Guingona would like to be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Guingona is recognized.

MR. GUINGONA. Mr. Presiding Officer, the scheme that Commissioner Rosario Braid referred to earlier is known as the Educational Service Contracting and in this pamphlet, it is explained as follows:

> Private schools are contracted by government to provide education to students who cannot be accommodated in public schools for such reasons as lack of space, facilities and teachers.

The cost of contracting is comparable to or, in most cases, cheaper than admitting the excess students in public schools. Since schoolyear 1982-1983, experiments have been conducted in Regions VIII and XII. According to the FAPE report, if a student were to study in a public school being operated in Region VIII, the operating cost would have been P667. Whereas, in the private school, the cost was P368, and the survival rate of those who studied in the private schools was 77 percent as against 38 percent for those in public schools. In Region XII, the comparative costing is P632 for private as against P714 for public, and the survival rate difference is 67 percent for private and 33 percent for public. This will be, even granting for the sake of argument that the amount paid by the government to private educational institutions might be the same, it will result in big savings to the government because, although the operating expenses will be the same, there will be a huge amount of savings insofar as capital outlay is concerned and that is a very big amount.

However, I agree fully with the view expressed by Commissioner Gascon that our thinking is that it is the state schools that should be strengthened. In other words, this scheme should be a stopgap measure at a time when we find ourselves with an indebtedness of $26 billion which we are servicing, when we find ourselves in economic crisis. This is something that we should do at the moment – to give more access to education. But I do not think that this is the scheme that we, in the committee, would favor in the future. What we want to see are educational institutions, not only private educational institutions but also state colleges and universities which provide quality education. When I talk of "quality education," I mean quality which is not only better than ever, but very much better than ever. As a matter of fact, there has been a report in September 1975, "Towards Integration of Higher Education in the Philippines," with regard to state colleges and universities and may I be allowed to quote the Presidential Study Committee on State Higher Education:

> The number of state colleges and universities has more than doubled over the past ten years. This growth, however, does not necessarily reflect an expansion or strengthening of the State's role in higher education since the numerical expansion of the system stems largely from the conversion of existing trade, teacher training and agricultural schools, which are generally secondary in orientation, into chartered colleges or universities. None of these converted schools has so far been able to reorient itself to its new role as a college or university primarily due to resource constraints.

This Member had the privilege of serving as a member of the panel on education, science and technology of the 1970 Presidential Reorganization Commission. In our public hearings, we had presidents of state colleges who, in their testimonies, more or less admitted that their schools which were substandard were created because of political motivations. They appealed to us for help to get appropriations and in the process, they gave us a disturbing picture of their colleges, as far as faculty and facilities are concerned, showing that a number of them were no better than glorified high schools. That is why we feel that this is the area which we should like to strengthen. We should avoid a proliferation of substandard state colleges and universities. Hence, we should improve.

But in the meanwhile that we do not have the capacity to improve, we should enter into this kind of scheme to allow a wider access to education. Even from the standpoint of the private educational institutions, why are they able to enter into this kind of scheme? This is because of the drop in enrolment. Eventually, because of population growth, enrolment would increase in the private educational institutions. They may not have the facilities to allow this kind of scheme; that is why we should look forward to the strengthening of the public educational system and not just look into this temporary measure.

BISHOP BACANI. May I reply to that? I am bothered by this stress on the public school system. Not that I do not like the public school system, but it seems that behind that is the thought that the State is the educator itself. The State enters badly into business. I think the State enters badly, and very often, into education. And just as in business, the work of the State is best done when it supervises, regulates and helps when it is necessary.

This is true in the matter of education. The best role of the State is that of a supporter or a regulator. Hence, when the Commissioner presented that as sort of an underlying philosophy, I was a little bit bothered because that is not the only alternative. I know that in Hongkong the government has a very viable private school system and it pays the salaries of all the staff members.

Believe it or not, the State builds the schools but it does not pay the salaries of the teachers. Yet it gets very good education for its citizens.

So, may we not perhaps revise our focus so that the stress will not be on supporting public education and expanding it but seeing how state-supported education will largely remain as a private enterprise with the State playing a subsidiary and an auxiliary role.

MR. GUINGONA. By desiring to have a strong public educational system, we are not necessarily giving stress or focus only on the system. That is why in the earlier provision that I explained this morning we talked about the complementary role in Section 2 (b), as our honorable chairman has pointed out. We said that the State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

In other words, we give due recognition to both systems. We should underscore the fact that both public as well as private educational institutions should not be allowed to install themselves in adversarial positions running along parallel lines that would never meet. Rather, they should be viewed as subsystems of an integrated whole which would work in coordination and cooperation with each other for the benefit of the youth of our country. The State must ensure that educational institutions, whether they be public or private, should provide quality education.

BISHOP BACANI. Anyway, I have stated my position, I will not counter that anymore.

MR. VILLACORTA. We will consider the amendment at the proper time. May we also invite our fellow Commissioners to start formulating their proposed amendments and to submit them to us as soon as they are ready in order that we can save time in our deliberations during the period of amendments.

BISHOP BACANI. I would like to ask for a clarification regarding Section 2 (c) on page 3.

Shall private educational institutions be owned and administered solely by citizens of the Philippines or corporations or associations wholly owned by such citizens? The questions of Commissioner Tingson were already answered this morning. I have a slightly different case here of the Italian Missionary Sisters. They have arrived recently in the Philippines. After one year of stay in the Philippines, they set up a school. I do not know the exact detail whether or not they owned the school. Under this provision, will they not be able to own or administer that school? Will they have to sell it and have it administered by other people?

MR. VILLACORTA. Usually, these religious orders have local counterparts or local members.

BISHOP BACANI. This particular school is completely new, they have no local counterpart here.

MR. VILLACORTA. In that case, once this proposed provision is adopted, these Italian sisters will not be able to set up the school. They would have to probably link up with the archdiocese of the particular community.

BISHOP BACANI. Thank you very much for that.

We go to Section 2 (f), line 19 on page 3.

MR. VILLACORTA. May I just point out, Mr. Presiding Officer, that Section 12 was put in by mistake. That should be deleted.

BISHOP BACANI. So, Section 2 (f) says.

> All educational institutions at all levels shall be required to form multisectoral bodies composed of students, faculty, parents, nonteaching staff, administrators and other representatives to participate in the formulation of school policies and programs, the details of which will be provided by law.

My first question is: Will this section – as it stands immediately now according to what it mandates – not go against Section 2 (e)? In other words, it will be providing a very important policy and planning decision by constitutional fiat, something which they are supposed to be consulted about previously.

MR. VILLACORTA. Offhand, I cannot see the contradiction between Section 2 (e) and (f). The Commissioner is pointing out to Section 2 (e) which is the previous paragraph.

BISHOP BACANI. Yes, Section 2 (e) says:

> In the formulation of educational policies, the State shall take into account regional and sectoral needs and conditions and shall involve their respective representatives in policy planning.

MR. VILLACORTA. Yes.

BISHOP BACANI. It may be that in a given region there may be a more authoritarian way and that people usually differ in their mores, in their modes of acting and in their ways of looking at authority. So, in a particular region there would be more decisions by simple fiats by authorities given that societal structure. What is mandated here in Section 2 (f) may not be advisable to a particular region and yet the Commissioner is saying that the representatives from the different regions should, first of all, be consulted before conducting a policy planning.

MR. GASCON. The intents of Section 2 (e) and (f) are as follows: First, in formulating educational policies, the State must take into account regional and sectoral needs and conditions. This means that we should have a more rationalized and systematic program of developing the system of education in the country. At this point in time, there is overconcentration of schools in the urban areas, particularly in Metro Manila. Second, state colleges and universities are sometimes created because of political influence, and not really to respond to the needs of a particular region. So the intent is that, as the State goes into further emphasis into the development of education, it shall develop schools in those particular regions responsive to the sectoral needs of the region. So, it is actually rationalizing the development of education and decentralization of the educational system towards educational systems which are tributaries to the immediate community. For example, in a particular community which is primarily agricultural, let us say riceland, it is perhaps appropriate that there will be schools created which would be of direct service to students and to the farmers that will guide themselves in developing further their systems of agriculture, fisheries, et cetera. Then, it will also be in accordance with the basic regional development plans of the whole region. As far as Section 2 (f) is concerned, this encourages democratization of schools, because at this point in time, there is very little participation of the other sectors in the educational system as far as policy-making is concerned. This goes from the school level up to the Ministry of Education level.

So, what is encouraged is that there will be greater opportunities for students, teachers, parents, administrators to work together in formulating policies and programs for the whole educational system, whether this be from the school level up to the Ministry of Education level.

So, Section 2 (f) is an attempt at democratization of the educational system, while Section 2 (e) is an attempt at rationalizing and decentralization.

MS. ROSARIO BRAID. May I comment a little?

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Like in economic development, our educational philosophy must have a thrust towards involvement of many sectors in planning. We also recognize the fact that there are differences among various regions. Some will be more participative than others, so that we recognize that this is evolutionary while others could involve as many sectors, say, ten sectors at a time. Some would start with two or three, but that the goal is to broaden the planning process, since we do recognize, and research has substantiated this, that the lack of involvement of the employers and the lack of appropriate boards for planning between the school systems and the representatives of employment agencies or employers, as well as other sectors, have led to the lack of perception that the educational system is not relevant to their needs.

Thank you.

MR. GUINGONA. Mr. Presiding Officer, may I be allowed to add my perception to the elaboration made by Commissioner Gascon in connection with the rationale regarding Section 2 (e). There is the need for adequate and effective communication between the policy makers and the people who are to be affected by the policies decided on.

A fundamental rule of management is that communication should flow not only from top to bottom of the hierarchical pyramid but also from bottom to top. The decision-maker should not be isolated from the experiences and the felt needs of those who would ultimately be affected by the policies. Not infrequently, the citizen who is the consumer of policy outputs is often ignored or given minimal role in the process of policy formulation and implementation.

Thank you.

BISHOP BACANI. May I now proceed to Section 2 (f)? There is a mandate here that all educational institutions shall be required to form multisectoral bodies. Suppose they do not do this, will there be sanctions?

MR. VILLACORTA. It says here, "shall be required." We are implying that every requirement would entail certain sanctions.

BISHOP BACANI. Yes, to enforce it. Would there be sanctions? I think this whole section belongs more properly to the legislature. Precisely, it is taking into account the different conditions of the different schools, as well as of the different regions.

MR. VILLACORTA. If I may express the intention of the committee, this is precisely to democratize policy-making in all schools, and in a way enshrining or embodying people's power even in schools. But at the same time, we would be open to suggestion from our fellow Commissioners on how to improve this particular provision.

BISHOP BACANI. Will this provision be applicable even if we have only an elementary school?

MR. VILLACORTA. Yes, as a matter of fact, it is at that level that more involvement on the part of parents, as well as students and teachers, is necessary.

BISHOP BACANI. Thank you very much.

Let me go to page 4, lines 10 to 13. Apparently here, the phrase "Institutions of higher learning" referred to is not simply public institutions of higher learning, but also private institutions of higher learning. When we say that "Institutions of higher learning shall enjoy fiscal autonomy," is this an attempt of the State to help them obtain fiscal autonomy or give fiscal autonomy? Suppose they are losing and they cannot survive, does this sentence "Institutions of higher learning shall enjoy fiscal autonomy" mean that the State will support them so that they will enjoy that fiscal autonomy?

MR. VILLACORTA. That is not the sense of this provision. The idea is to give them independence and enough elbow room to determine the direction and the future of their fiscal viability as applied to state colleges and universities. This would give them the freedom to manage their financial concerns. As it is now, the state colleges and universities are tied to the Ministry of the Budget and they would always have to ask for funds from the central government. So, this is by way of decentralizing the fiscal concerns of state colleges and universities.

BISHOP BACANI. So, this refers to state colleges and universities?

MR. VILLACORTA. With respect to the private schools, this would also grant them this necessary autonomy so that they would be able to have the freedom to determine their fiscal policies, et cetera. Does the Commissioner have any particular reservations?

BISHOP BACANI. None. I am afraid I misconstrued the meaning.

MR. VILLACORTA. The State will guarantee fiscal autonomy. With respect to that, there is the very last provision on education which is Section 5 (c) on page 5, lines 1 to 5, and it says:

> The State may subsidize educational institutions which are duly accredited for the purpose of subsidy as may be provided by law, without prejudice to other types of assistance or incentives given to all educational institutions.

So it says here "may," so it is just directory or it gives the State that option to subsidize educational institutions.

BISHOP BACANI. Thank you.

Finally, I suppose Section 4, lines 18 to 23, is to be understood within the context of the existing labor laws at present and that this is not an indiscriminate assertion that they enjoy security of tenure no matter how long they have been working there. Is this within the context of existing labor laws?

MR. VILLACORTA. It says here:

> They shall enjoy security of tenure and may not be removed from office except for causes provided by law.

So this would refer to existing laws. However, if those laws are amended by future Congresses, then the most immediate law will apply.

BISHOP BACANI. Thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). The Acting Floor Leader is recognized.

MR. SARMIENTO. Mr. Presiding Officer, may I ask that Commissioner Bernas be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bernas is recognized.

FR. BERNAS. Mr. Presiding Officer, just a few questions. I seem to be hearing different signals from the Commissioners. During the sponsorship speeches this morning, the emphasis was on the primary right of parents. And then, this afternoon I hear from Commissioner Gascon that education is primarily a public responsibility. Thirdly, while the assertion was that education is a primary right and duty of parents, the section in the 1935 and 1973 Constitutions, which recognizes the natural right and duty of parents in the rearing of the youth, has disappeared. So what is it now? Where do parents stand as far as the philosophy of education is concerned?

MR. VILLACORTA. We recognize the role of parents as partners of the State in educating the youth of our country. I wish the Honorable Bernas would be more specific as to provisions which probably do not adequately reflect that article.

FR. BERNAS. First, I am referring to the deletion of the old provision which mentions the right and duty of parents.

MR. VILLACORTA. That is right.

FR. BERNAS. And second, the reference of the statement of Commissioner Gascon that education is primarily a public responsibility.

MR. VILLACORTA. That is right.

FR. BERNAS. And yet, the statements this morning also said that education is primarily a parental responsibility; so where is it?

MR. GASCON. May I answer that? On the first question as to where the provision on the role of parents in the rearing of the youth is, this has been transferred and made part of the Article on Family Rights.

FR. BERNAS. So, does the committee still recognize that the role of the State in education is subsidiary?

MR. GASCON. Yes, that is correct.

FR. BERNAS. Thank you.

MR. GASCON. May I continue? Let us clarify the second part. It is true we said that the duty to provide education belongs to the parents, but just as much as it belongs to the parents, it is also a public duty of the State.

FR. BERNAS. No, I am not denying that. I am just trying to find out . . .

MR. GASCON. It is very clear to us that the parents have the primary role and responsibility. However, that does not mean that the State does not have a correlative duty to provide and support parents in providing education.

MR. GUINGONA. Mr. Presiding Officer, if the Chair will allow me, we stressed this morning, and again Commissioner Gascon reiterated the view of the committee, that the role of the State vis-a-vis the parents is subsidiary or supportive.

The reason we did not include the provision that the Commissioner had cited is that we have been informed that it is already included in a separate article. But we do recognize the supportive role of the parents.

FR. BERNAS. Mr. Presiding Officer, that is very clear to me now.

MR. GUINGONA. Yes. But there is only one point. When we speak of the primary duty of the State, not in relation with the parents, we mean that the State has that principal duty (because of the corresponding right that we have vested in the citizens), which is to provide education first within the context or framework of our draft Constitution and, later on, to all kinds of education that the State could afford.

FR. BERNAS. If it is true that the primary right belongs to the parents, I do not see how it follows that the emphasis of the State should be on public schools. Commissioner Gascon said that in response to the questions posed by Commissioner Bacani. Commissioner Bacani asked about the possibility of giving subsidy to parents and for the parents to choose the school where to send their children. The response was negative, because the primary emphasis should be on public schools.

MR. VILLACORTA. Probably, the intention of Commissioner Gascon was not really to say that the State has no responsibility to private schools. It is just that the government would be more concerned with the development of government schools. That is precisely why we are saying that public education will be free up to the secondary level because that is the sector of education that the government is most concerned with and should concern itself with. But it is not to imply that private schools are outside the purview of the concern of the State.

FR. BERNAS. In other words, Commissioner Gascon was not saying that the State will help the parents only if they send their children to public schools.

MR. VILLACORTA. That was not the intention of Commissioner Gascon.

FR. BERNAS. Thank you, Mr. Presiding Officer.

Now, I would like to move on to academic freedom. The draft mentions three kinds of academic freedom — institutional academic freedom, faculty academic freedom and student academic freedom.

I would like to begin with institutional academic freedom. Do I take it that the committee accepts what is found in decisions of our Supreme Court, particularly *Garcia vs. Loyola School of Theology,* where the components of institutional academic freedom are: (1) the right of the institution to decide on academic grounds what should be taught; (2) how it should be taught; (3) who should teach; and (4) who should be taught? Does the committee accept that?

MR. VILLACORTA. Yes, Mr. Presiding Officer.

FR. BERNAS. And yet it seems to me that throughout the report, there are statements saying that the State shall require this, shall require that, and so forth, so that there seems to be an empowerment of the State to dictate what should be taught.

MR. VILLACORTA. Is the Commissioner referring to Section 2 which defines the content of the curriculum?

FR. BERNAS. Yes, Mr. Presiding Officer. I find it a little constrictive.

MR. VILLACORTA. It is part of the plenipotentiary duty, if not the right of the State, to provide certain thrusts in the development of society, and that includes education. We are not talking here about the fascistic prerogative of the State which we are denying in this Constitution. But at the same time, we realize that we are a developing country and there are certain priorities that we should give to the development of the human person. That is why we named nationalism as the first thrust here, although this should not imply that it is the most important, followed by love of fellowmen, respect for human rights, rights and duties of citizens, political, health and ecological consciousness, service to society, ethical and spiritual values, moral character and personal discipline, critical and creative thinking, scientific, technological and work-oriented efficiency and liberal education. Most of these were drawn from the 1973 Constitution. Am I right, Mr. Presiding Officer?

FR. BERNAS. These are guidelines for the State.

MR. VILLACORTA. That is right.

FR. BERNAS. What I am concerned about, and I am sure the committee is concerned about also, is the danger always of the State prescribing subjects. I recall that when the sponsor was the dean of Arts and Sciences in La Salle, his association of private school deans was precisely fighting the various prescriptions imposed by the State – that the schools must teach this, must teach that. Are we opening that up here?

MR. VILLACORTA. The Commissioner is right in describing these as guidelines. This is not to say that there will be specific subjects that will embody these principles on a one-to-one correspondence. In other words, we are not saying that there should be a subject called nationalism or ecology. That was what we were fighting against in the Association of Philippine Colleges of Arts and Sciences. The government always came up with what they called thrusts, and therefore the corresponding subjects imposed on schools that are supposed to embody these thrusts. So, we had current issues. It was a course that was required on the tertiary level. Then there was a time when they required subjects that dealt with green revolution; and then agrarian reform. Taxation is in fact still a required course. We are not thinking in those terms. These are merely guidelines.

FR. BERNAS. In other words, while the State will give the goals and guidelines, as it were, how these are to be attained is to be determined by the institution by virtue of its academic freedom.

MR. VILLACORTA. That is right, Mr. Presiding Officer. I invite, of course, my fellow members in the committee who might have some reservations on the points I raised.

FR. BERNAS. But I guess what I am trying to point out is: Are we really serious about academic freedom?

MR. VILLACORTA. Definitely, we are. Would the Commissioner have certain misgivings about the way we defined it?

FR. BERNAS. I would, if the committee goes beyond mere guidelines, because if we allow the State to start dictating what subjects should be taught and how these would be taught, I think it would be very harmful for the educational system. Usually, legislation is done by legislators who are not educators and who know very little about education. Perhaps education should be left largely to educators, with certain supervision, and so forth.

MR. VILLACORTA. Excuse me, Mr. Presiding Officer, if I may interject. I am sure the Honorable Bernas, being very much experienced in education, is aware of the fact that there is this great need to develop certain priority concerns in the molding of our youths' mind and behavior. For example, love of country is something that is very lacking in our society and I wonder if the Honorable Bernas would have any reservation against giving emphasis to nationalism.

FR. BERNAS. I have nothing against motherhood concepts, Mr. Presiding Officer.

MR. VILLACORTA. But this is always the dilemma of educators. To what extent do we give freedom as to the subject matter and manner of teaching versus certain imperatives of national development? In the last dispensation, we found a lopsided importance given to so-called national development which turned out to be just serving the interest of the leadership. The other members of the committee are fully aware of the dangers inherent in the State spelling out the priorities in education, but at the same time, we cannot overlook the fact that there are certain areas which must be emphasized in a developing society. Of course, we would wish that we shall not always be a developing society bereft of economic development as well as national unity. But we like the advise of the Honorable Bernas, as well as our colleagues in the Commission, on how we can constitutionalize certain priorities in educational development as well as curricular development without infringing necessarily on the goals of academic freedom. Moreover, jurisprudence accords academic freedom only to institutions of higher learning.

FR. BERNAS. So, I am quite satisfied that these are guidelines.

Still on academic freedom of educational institutions in relation to security of tenure, would this leave educational institutions the freedom to determine when a faculty member acquires tenure quite distinct from the rules of permanency for labor in general? I think in established universities tenure usually is not acquired until one reaches a certain rank and he reaches that rank after ajudgment of his peers in the educational field that in fact he has the academic qualification.

MR. VILLACORTA. I know that the term "tenure" has a different meaning in academic institutions. Tenure, as we understand it in the universities, refers to a certain level of recognition and that recognition is supposed to assure one's permanency in his position because he has achieved much in terms of publications, research, et cetera. However, I would like to request Commissioner Guingona and Treñas who are lawyers to explain this matter too. But my understanding is that "tenure" here is used in the context of permanency as understood in labor law.

FR. BERNAS. As understood in labor law?

MR. VILLACORTA. Yes, because it says here: "Provided by law." This phrase would not refer to certain principles of academic institutions but would most likely pertain to existing laws.

FR. BERNAS. That is where I have difficulty, Mr. Presiding Officer. Perhaps we can go back to this later on. Because if we recognize as an aspect of academic freedom the right of the institution to decide on academic grounds who should teach, then our concept of tenure in academic institutions of higher learning should, it would seem to me, be different from the concept of tenure in labor in general.

MR. GUINGONA. Mr. Presiding Officer, when we speak here of law, we do not equate it with labor. In other words, anything that is provided for by law. So, if the law allows a different standard with regard to educational institutions, then the law prevails.

FR. BERNAS. In other words, it is clear that it is the intention of the committee not to treat faculty members in the same way as labor in general?

MR. GUINGONA. We would like to treat educational institutions as may be provided by law and not necessarily labor laws.

FR. BERNAS. Thank you, Mr. Presiding Officer.

Still on academic freedom, paragraph (f) on page 3 states:

> All educational institutions at all levels shall be required to form multisectoral bodies composed of students, faculty, parents, nonteaching staff, administrators and other representatives to participate in the formulation of school policies. . .

What is the meaning of the phrase "to participate in the formulation of school policies"? In other words, what I am asking is: Must they have a vote in the administration? Are we speaking merely of consultative role?

MR. VILLACORTA. Commissioner Gascon would like to answer that.

MR. GASCON. Actually, the committee does not have a full consensus on this. The consensus that we had is that in the processes of determining policies, programs and directions, there should be a process of consultation among the different sectors in the academic community. So, this could go from several committees on curriculum or better facilities, programs, et cetera, all the way up. We are divided on the issue of the vote of the highest policy-making body; let us say, the board of trustees or the board of regents. I believe that is the tenor of the Commissioner's questioning.

FR. BERNAS. Yes.

MR. GASCON. My personal position is that it may be provided in the long run by law. And in fact, it is already being done slowly in some state colleges and universities. For example, the University of the Philippines at this point in time has a student regent. The law provides that a student regent would have a vote in the board of regents of the University of the Philippines. At this point in time, I believe in the restructuring and reorganizing of the Mindanao State University. There is not only a student representation but faculty representation as well. So, my idea here is that it could lead up to the level of board of trustees or board of regents as it may be provided by law. That section is open on that.

MR. GUINGONA. May I just add that I wish to underscore the statement of the Honorable Gascon that as far as that matter that he touched upon is concerned, the committee is divided.

FR. BERNAS. Thank you, Mr. Presiding Officer, and perhaps, we can resolve the division somehow during the period of amendments. I have no difficulty with academic freedom of faculty. I think that is quite an established thing. I still have difficulty in conceptualizing academic freedom of students. I suppose we can have various extremes on this. As I understand it, the academic freedom of students is something that is a phenomenon in European systems of education where students are free to go or not to go to class. They take their exams anytime they are ready and so forth. What does "academic freedom of students" mean?

MR. VILLACORTA. Mr. Presiding Officer, in discussing academic freedom to include students, I referred to the Commissioner's book.

FR. BERNAS. It is always dangerous to write a book. It can be used against the person.

MR. VILLACORTA. It is entitled *Philippine Constitutional Laws* and it says:

> The modern conception of academic freedom has its immediate origin from a 19th century German formulation, summed up by two words: *Lernfreiheit* and *Lehfreiheit.*
>
> *Lernfreiheit* described the academic freedom of students who were free to roam from place to place, sampling academic wares, free to determine the choice and sequence of courses, responsible to no one for regular attendance and exempted from all tests, save the final examinations.

Of course, for the purpose of the students in the gallery, they are reminded that Commissioner Bernas was referring to the German university tradition. So, we request them to attend their classes still and take the tests.

> The core of *Lehfreiheit* was the freedom of the German educator to do independent research, to report his findings to his students, and even to attempt to win adherents to his theories. Academic freedom was a right enjoyed only within the academic community. It was a right not available outside the walls of the academe.

Of course, Commissioner Gascon also did his research on the judicial precedence pertaining to academic freedom for students.

FR. BERNAS. I might also add that the next page in that book says that in the transplantation to the new world, academic freedom underwent a transformation.

MR. VILLACORTA. That is right. And it is too long for me to quote from the two pages that described the transplantation to the United States and the other countries of this concept of academic freedom. Suffice it to say that the impression we got from reading this portion is that academic freedom is indeed enjoyed by university students.

FR. BERNAS. In the European tradition, one can speak of academic freedom, but once transplanted to the American tradition, things became more rigid. As I said, the reason there was academic freedom in that form in the European tradition was that it was only within the university institution that there was freedom; outside there was none. Perhaps the most extensive thing that has been done on academic freedom of students is the article of a student editor of the UP Law Journal.

MR. GASCON. I was about to put some discussions on that. Actually, when I spoke this morning on the issue of student academic freedom, I said that this would be attuned to the academic freedom we afford the institutions and teachers and, in fact, it would parallel the freedom of inquiry and expression in curricular activities, extracurricular student affairs, in- and off-campus, procedural fairness in disciplinary proceedings and participation in the governance of the institution.

The whole context of our backing the academic freedom afforded to students is to complete our definition of the academic community. We cannot think of an academic community without the faculty, without the administrative personnel and, of course, without the students.

The Commissioner was referring to an article written by a student of the UP College of Law in the *Philippine Law Journal.* He is Atty. Rafael Lotilla, now a professor of the UP College of Law. In his article, he defines student academic freedom in institutions of higher learning. This can be found on page 589 of the *Philippine Law Journal,* Volume 57, 1982, and I quote:

> The student should not be prevented by the teacher or the institution from undertaking research on his own and afterwards publishing the result of his research. But the student is under an obligation to observe administrative procedures and requirements such as the payment of fees for the use of chemicals, power and facilities of the university. The same administrative restriction is imposed on other members of the academic community.
>
> The student is also required to observe standards of safety and hygiene, thus, the school authorities may regulate access to laboratory facilities, the use of which may pose a hazard in the hands of individuals lacking in skill.
>
> Supervision by a faculty member or an administrative assistant may also be required. Individual student academic freedom is also limited by the freedom of other students. Where the acts of a student denied academic freedom of other students, school authorities must step in. Included among such acts are the employment of violence, force or coercion of other members of the academic community in order that the latter will conform to a particular line of thought or adopt a particular line of action.
>
> The boot camp policy of intolerance is anathema in an institution of higher learning. Additionally, in a universe where the range of knowledge borders on the infinite, the teacher may find himself in the position of another learner so that his freedom to learn will also have to be respected.

FR. BERNAS. Yes, Mr. Presiding Officer, I have no quarrel with what I have heard. When I listened to that, it seems to me that the only thing that can be properly considered as academic freedom there is the right of the student not to be prevented to do research and to publish it – if he can find a publisher, of course, or if he can publish it himself. But all the rest just seems to be a mere recognition of due process, and I suppose it also includes the fact that the student should be consulted about school policy and so forth. What I am concerned about is that we should not raise the expectation of students by leaving unexplained the meaning of this. Certainly, by academic freedom for students, I do not think the committee meant, for instance, that they may not be bound to follow certain core requirements if they want to have a degree. That is, I suppose, not the intention of the committee. If one wants to have a degree in Nursing, then the institution of higher learning has the right to require that a student must pass this course on this subject, this course on that subject and attend a number of classes; that is perfectly within the academic freedom of students. In other words, all of these – the academic freedom of students, the academic freedom of the faculty member and the academic freedom of the institution – should be balanced so that they do not cancel each other out.

MR. VILLACORTA. That is correct.

FR. BERNAS. But when there is a conflict, which prevails?

MR. VILLACORTA. Would the Commissioner have any suggestion?

FR. BERNAS. On the matter of who should be taught, I would say that academic freedom is generally the freedom of the scholar. Therefore, all of these must be weighed on scholarly grounds. So, as a general rule, I would probably say that faculty and institution are on the same level, but as far as the student is concerned, they are on a lower level.

MR. GASCON. I would disagree with that in the sense that the student himself is also a scholar.

FR. BERNAS. As far as the freedom to do research is concerned, I do not think we can prevent anybody from doing any research. The father or the mother may be able to stop the child from doing a research in a particular field, but I do not think an outsider . . .

MR. GASCON. Because essentially, when we speak of academic freedom, it means that the core is the freedom to inquire.

FR. BERNAS. Correct.

MR. GASCON. Because of such, I do not see any delineation between the teacher and the student in the institutions of higher learning because in reality and in that context, both are learners.

FR. BERNAS. As far as inquiry is concerned, as I said, I have no difficulty. But as far as requiring standards, then, I think it would be the institution or the faculty which would have the superior right to set standards if the student, let us say, wants to get a degree.

MR. GASCON. Of course, to get a degree, there are certain core subjects which have to be fulfilled and the context of academic freedom is seen within the purview.

MR. GUINGONA. Mr. Presiding Officer, if I may, I would like to give some additional remarks. In the enjoyment of academic freedom, as the Commissioner has very well pointed out, conflict situations could arise: between institutions and individuals and even between institutions – between the university as a whole and its units such as its colleges or institutes; and between individuals, for example, professors and students. We have thought it prudent not to make any statement on this matter because we think it would be better addressed to the legislature and to the courts and matters could be decided perhaps on a case-to-case basis.

FR. BERNAS. Yes, Mr. Presiding Officer.

MR. GASCON. However, I would like to expand. When we speak of academic freedom, basically we also speak of the freedom of the citizen to express. And I do not think that such a freedom which is existent in society should be limited within the context of the university. Therefore, students should be given their democratic rights to, for example, form organizations which they feel are relevant to their needs and, of course, subject to certain limitations and provided that this is not contrary to law. Second, they have the right to organize, let us say, alliances or student councils to unite the studentry in projecting their issues and demands. Third, they should also be given the freedom of expression and speech in as far as campus papers are concerned. And there should be no law or regulation passed which would limit such right of the students.

In the Philippine society, up to this point in time when we have already won the political revolution of 1986, there are still many schools that do not have genuine and autonomous student councils. There are still many schools which do not have campus papers. Or if they do, these are heavily censored by the administration. So these, from my perspective, are violations of not only academic freedom but of the Bill of Rights.

FR. BERNAS. I have no difficulty with everything that the Commissioner said, except perhaps to ask why class all of the things he enumerated as coming under academic freedom. It would seem to me that many of those things are already covered by freedom of speech, assembly, petition and so forth and these certainly apply wherever the student is. What I am trying to do is just to narrow down what the scope is of student academic freedom. Does this add anything over and above what is already guaranteed by the Bill of Rights?

MR. GASCON. From my point of view, it gives assurance that the rights a student has as a citizen would continue to be enjoyed by him as a student.

FR. BERNAS. And I do not see why it should not.

Just one minor question, Mr. Presiding Officer. The question was asked by Commissioner Tingson – correct me if I heard it wrong or I repeat it wrong – as to whether the phrase "without additional cost to the government" includes the meaning that, therefore, public school teachers may not teach religion. The answer of Commissioner Rigos was in the affirmative. Would it still be in the affirmative if in fact the public school teacher, during his free time, volunteers at no extra cost to teach?

REV. RIGOS. The committee's fear in that kind of an arrangement is that the teacher may tend to give more favor to students who attend their religious class.

FR. BERNAS. So, it is not a question of the cost to the State. That is the only point I have. I do not see why it should be linked to the phrase "cost to the State."

REV. RIGOS. As far as the "cost to the State" is concerned, that is perfectly all right.

FR. BERNAS. No, but I thought that I understand, as saying to Commissioner Tingson . . .

REV. RIGOS. As far as salary is concerned, it should not be charged to the government.

FR. BERNAS. That is correct. But whether or not the public school teacher will be allowed to teach, I would agree with the Commissioner that that should be left to the discretion of even the school authorities. It would be within the power of the State, for instance, to prohibit public school teachers from teaching because, precisely, as the Commissioner has said, the teachers themselves may be subjected to pressure by religious authorities or the teacher may use religion as an instrument for, as it were, persecution. But the only thing I wanted to clarify was that there is really no link between that and the cost to the State.

REV. RIGOS. That is right, Mr. Presiding Officer.

FR. BERNAS. I thank the sponsors; thank you, Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. SARMIENTO. Mr. Presiding Officer, the number of Commissioners has dwindled to only about 20. May I ask for a suspension of the session, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo). The session is suspended.

It was 4:42 p.m.

RESUMPTION OF SESSION

At 5:21 p.m., the session was resumed with the President, the Honorable Cecilia Muñoz Palma, presiding.

THE PRESIDENT. The session is resumed.

MR. SARMIENTO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. SARMIENTO. After the evangelist and the two priests, may I ask that a general be recognized, Commissioner de Castro?

THE PRESIDENT. We welcome the general. General de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President. I just have a few questions to the committee which are answerable in crisp language, yes or no, without giving a lecture nor a reading from a research paper. My first question is on page 1, line 18, on free education up to secondary level. When we say "free," what are included here? Are books included in this free education?

MS. ROSARIO BRAID. Yes, they have free workbooks which are provided by the government. So this will include tuition fees and free workbooks, but not other expenses.

MR. DE CASTRO. How about laboratory fees?

MS. ROSARIO BRAID. I think this will also include all fees.

MR. DE CASTRO. How about athletic fees?

MS. ROSARIO BRAID. Yes, all fees.

MR. DE CASTRO. So, the student will just be there, free of everything, except his pencil and paper, is that clear? Do I get that?

MS. ROSARIO BRAID. Yes.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Although the right to education, as I said this morning, could be expanded, essentially, these fees could include, among other things, what Commissioner Rosario Braid has mentioned, like textbooks; and it could even extend to other matters.

MR. DE CASTRO. Then, that is clear.

In our Province of Laguna, our high school is located in Santa Cruz, the capital of the province, and that is indeed very far from the first district of Laguna. So, if we want to study in a public high school, we go to Metro Manila. But we are not admitted here because we are from the province, and it will be more costly for the towns of San Pedro, Biñan and Santa Rosa to go to Santa Cruz and get a free secondary education. I do not know about the other provinces. Batangas has only the Batangas High School, and it covers the farthest town of Nasugbu. And so with Cavite. Does the committee look towards establishing public high schools in several places in a province?

MR. VILLACORTA. That would be a consequence of this provision because the idea is to maintain a system of free public education and also to provide equal access and opportunity.

MR. DE CASTRO. I asked this so it can be put on record so that our Congress may see that the intent of the committee is to establish free secondary schools easily accessible to students in the province.

Allow me to go to line 1, page 2 which says: "compulsory through the elementary level." How about those who would not like to go to school? I know of many children who are just running around the barangays and although we have free elementary education and the school is just near them, they do not like to go to school. The reason of the parents is: "Wala naman kaming pang-uniporme ng bata, pambili ng notebook at pambaon." They are really poor. How can we compel them to go to school?

MR. GUINGONA. Although the word "compulsory" is oftentimes linked with attendance, as we mentioned this morning, even in political communities like the United States where they have very strict attendance laws – they have this Truancy Law – there are still quite a number of students who do not attend. In other words, "compulsory" is not a strict compulsion, but this is established not only in jurisprudence but in many documents like declarations and constitutions and so forth, and we would like to think that this word would also refer to a mandate to the State.

MR. DE CASTRO. All right, we leave it at that.

I remember in the early 1920's when I was in the first grade, ang, lahat ng batang hindi pumapasok ay hinuhuli ng pulis at dinadala sa kanilang mga magulang. Does the committee intend to do this?

MR. GUINGONA. No, sir, because precisely we are just using the same words that are found in both the 1935 and 1973 Constitutions and, therefore, practices in jurisprudence . . .

MR. DE CASTRO. Thank you.

MR. GASCON. Madam President, I would like to add just a little; it will be short.

The intent is very simple. The context for continuing education is present in the student, in the youth, in the children, so that these examples which the Commissioner gave – walang lapis, uniporme o pambaon – ay hindi magiging dahilan para hindi siya makapag-aral. Sa aming pananaw, kung ang pamahalaan ay magbibigay ng isang malinaw na programang pang-edukasyon para sa mga bata para mahikayat siyang ipagpatuloy ang kanilang pag-aaral sa iba't-ibang pamamaraan, iyong mga ganyan ay mawawala. Ito po ang punto dito.

MR. DE CASTRO. Thank you. I hope so; we have tried it very hard in our place.

MR. GASCON. The point is, we hope there will come a time when we do not even need to compel; the parents themselves will send them to the school.

MR. DE CASTRO. I hope.

MS. ROSARIO BRAID. May I just add that, I think, as Commissioner Gascon said, the State shall do its best to provide the necessary support services; but for the future, say, 10 years from now, the classrooms that we have today will not be enough for all those who seek entry to the educational system. In other words, the education that we will have will use as many learning delivery systems, like radio, television and community organizations. This is what we call "independent system."

MR. DE CASTRO. If the committee finds me a little impatient in hearing the long explanations, please do not think that I am restraining anyone from talking or from asking a simple question because we are also biding for time. Please do not include the officers of this Constitutional Commission when I say thank you, I am satisfied.

On lines 3 to 5 of page 2, does this refer to public and private schools?

MR. GASCON. Does the Commissioner refer to scholarship grants and other incentives?

MR. DE CASTRO. No, I mean the whole sentence. Does this refer to public and private schools?

MR. GASCON. In as far as the State is promoting quality education, of course, the State should make sure that quality education is given to all students, whether they are in public or private schools. The second part which reads: "ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives," is biased and directed to the poor and deserving students. So, the hope is to equalize access for those who are poor but deserving.

MR. DE CASTRO. So, the second part refers also to private schools?

MR. GASCON. Yes, it is possible that students who are poor and deserving can study in private schools.

MR. DE CASTRO. The answer would be, the first part refers to public schools and the second part refers to private schools.

MR. GASCON. No, the Commissioner is speaking of quality education.

MR. DE CASTRO. To both.

MR. GASCON. Students who are poor and deserving can avail of scholarships to private schools if they are available.

MR. DE CASTRO. Yes. I am only asking whether it refers to public or private schools. Once that is answered, I am satisfied.

MR. GASCON. It refers to both.

MR. DE CASTRO. On line 8, what is the meaning of "indigenous learning systems"?

MR. VILLACORTA. Commissioner Bennagen will explain that. That is his contribution.

MR. BENNAGEN. There is now an ongoing movement in the ASEAN region which tries to document those learning systems that have survived even from preconquest period, and this is taking place not only in the Philippines but also in Indonesia and Thailand.

MR. DE CASTRO. Will this be taught in all schools in the Philippines?

MR. BENNAGEN. Not necessarily, only where it is appropriate. For instance, in certain areas where these are still viable, they could be integrated into the formal school system.

MR. DE CASTRO. What does "indigenous learning systems" mean?

MR. BENNAGEN. It could include the participation of indigenous institutions. What would be a familiar institution to the Commissioner? In other areas in the Philippines, both in the North and the South, there are community institutions where children are educated in terms of economic and cultural skills as well as political skills, and this takes place outside of the formal school system.

MR. DE CASTRO. On line 11, it says: "The State shall provide civics, vocational efficiency. . ." What is the meaning of "civics"?

MR. VILLACORTA. Madam President, "civics" generally refers to citizenship, social studies, concepts of personal and social morality.

MR. DE CASTRO. Does it not include the three Rs – reading, 'riting and 'rithmetic? I believe that the basic thing that we should teach our people, particularly because we are now allowing illiterates to vote, is reading and writing.

MS. ROSARIO BRAID. Yes, the Commissioner will notice that the first part of Section 1 (d) includes literacy classes for adult learners and dropouts. And so, this is where we could teach the three Rs. From lines 11 to 13, which is the second paragraph of the same subsection, we want to emphasize that along with the three Rs and the basic skills needed, we would like to also include civic, vocational efficiency and other skills.

MR. DE CASTRO. Thank you. I am more concerned about the three Rs because these are very basic. A man, after learning the three Rs, can get a vocational job and he will be all right.

Lines 14 to 27 state: "All educational institutions shall inculcate nationalism, love of fellowmen and respect for human rights." Does the committee not think that the best subject here is Fiber and Finish? Even a small boy will talk to me, "Hoy, ano ba iyong. . .?" When I was in college, one time while enrolling at FEU I was smoking and somebody just grabbed my cigarette to have a light without even saying, "May I have a light?"

So, I think Fiber and Finish would be the best thing that should be impressed on the students rather than instill in them political awareness. When I talk of Fiber and Finish, it means good manners and right conduct.

MR. GASCON. I think Commissioner de Castro is speaking of good manners and proper conduct, is that correct?

MR. DE CASTRO. Yes, that is Fiber and Finish.

MR. GASCON. This is on line 19. Aside from inculcating nationalism, love of fellowmen, et cetera, it will also develop moral character and personal discipline, as well as ethical and spiritual values.

MR. DE CASTRO. If we go to page 3, line 25, one will find out that the study of the Constitution and human rights is made part of the curricula because if we teach the Constitution, we also teach human rights. There is some emphasis on human rights. We find this on page 2 and page 3. Is that the intent of the committee?

MR. VILLACORTA. Madam President, the emphasis on human rights is a product of our recent traumatic experience.

MR. DE CASTRO. I know.

MR. VILLACORTA. But not only that. I know the Commissioner's point. We cannot go by our recent experience in writing the Constitution. If the Commissioner has any suggestion, we would be open to it as far as the Committee on Human Rights is concerned.

MR. DE CASTRO. Thank you. I find the emphasis by the Committee on Human Rights and I also find the emphasis of human rights towards the military and the police. So, I could not be blamed if I also find emphasis in this committee report.

We now go to line 16 of page 2 – "rights and duties of citizenships." This is also part of the Constitution. When we say that the study of the Constitution shall be part of the curricula, then this is also the citizenship rights and obligations which are already necessarily included. Am I right?

MS. ROSARIO BRAID. The Commissioner is right. We just want to come up with guidelines needed for curriculum development which are here – statement of goals or aims. And then, the study of the Constitution will support these aims and goals, so that really the aims here take precedence or primacy over the subjects.

MR. DE CASTRO. For emphasis, maybe it should be duties, rights and obligations of citizens.

MR. GASCON. I would like to make a clarification.

All of these concepts are goals. They are not titles or subjects or courses to be taught. They are themes and goals which may be taught in different ways and in different schools. When we go into the teaching of the Constitution, probably, it will become a special subject as we now have the Philippine Constitution as a required course in college. So, the teaching of the Constitution would be actually in line with the teaching of . . .

MR. DE CASTRO. I am more concerned about our writing the Constitution. People may say, "What a Constitution this is! It is a repetition of the whole thing."

Let us go to page 3, lines 2 and 3 which states: "Private educational institutions shall be owned and administered solely by citizens of the Philippines. . ." When one says "owned," that is wholly owned, is it not? What happens to Ateneo, La Salle, San Beda, Letran and University of Santo Tomas?

MR. VILLACORTA. They are Filipino-owned, Madam President.

MR. DE CASTRO. The University of Santo Tomas?

MR. GASCON. Yes, and Letran.

MR. VILLACORTA. Yes, the University of Santo Tomas has been Filipinized.

MR. DE CASTRO. If it is not, then I have not made my research; I just received this this morning. Perhaps, I will make my research tomorrow.

MR. GASCON. It is now.

MR. DE CASTRO. All right, thank you.

Lines 16 to 18 state:

> In the formulation of educational policies, the State shall take into account regional and sectoral needs . . .

When we say "regional," are we talking of the autonomous regions created in the Constitution?

MR. GASCON. Not only the autonomous regions, but all geopolitical regions in the country, even the Ilocos region.

MR. DE CASTRO. Are the autonomous regions included?

MR. GASCON. Yes, they are included.

MR. DE CASTRO. We now go to Section 16 of the Article on Local Government which we approved. It says:

> The Congress shall enact an organic act for each autonomous region with the assistance and participation . . . The organic act shall define the basic structure of government for the region consisting of the executive department . . . The organic acts shall likewise provide for special courts xxx

Section 20 says:

> Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over . . . educational policies.

Since these include Section 1 (e); that is, for the State to include the region, are they not also included in the autonomous regions?

MR. GASCON. That is right, they complement. However, in Section 2 (e), it does not only think of the autonomous regions but all other regions. The whole point is that at this point in time schools are overcentralized in the urban areas, particularly in Metro Manila, and there is a great need for relevant educational institutions in the regions and provinces to be of service to the citizenry in those areas.

MR. DE CASTRO. Will the committee accept certain amendments to harmonize this section with the autonomous regions?

MR. VILLACORTA. Certainly, if the Commissioner has some ideas.

MR. DE CASTRO. On line 25, page 3, it states that:

> The study of the Constitution and human rights shall be part of the curricula in all schools.

I agree with Commissioner Tingson when he said that the life of our national heroes should be part of the curricula, particularly Jose Rizal, not because he is from Laguna but because he is our national hero. And this is to impress upon our people patriotism and nationalism so that our young people will know right from the very beginning what is patriotism and nationalism through clenched fist.

Now we go to page 4, lines 10 to 13. Does this refer to public and private institutions?

MS. ROSARIO BRAID. Yes.

MR. DE CASTRO. And the committee is saying here that the private institutions must practice fiscal autonomy, is that right?

MR. VILLACORTA. Yes, Madam President.

MR. DE CASTRO. So that the State is directing even the private institutions to practice or to institute fiscal autonomy. Am I correct?

MR. VILLACORTA. Yes, Madam President.

MR. DE CASTRO. Lines 18 to 23 state that academic and nonacademic personnel can undertake concerted activities. And when we say concerted activities, these include strikes. When the academic and the nonacademic people go on strike, what happens to the students? They have no classes.

MR. VILLACORTA. I guess that is the consequence.

MR. DE CASTRO. So, if the strike goes longer, the schoolchildren are out of school.

On line 21, it says, "They shall enjoy security of tenure." As the sponsor has explained, they cannot be removed after a certain period. Suppose they want to get out and they are so important to the university and the university would not let them go out, can they go out?

MR. VILLACORTA. They may, Madam President.

MR. DE CASTRO. This is one-sided. The university cannot hold them and the university cannot fire them. We are having here a one-sided provision in the Constitution.

MR. VILLACORTA. Because we go by semesters or trimesters. It is usually the obligation of professors or teachers to stay until the semester is over. This is on the tertiary level. But on the preuniversity level, we are talking about school years. We leave it to the moral responsibility of mentors to stay on until the semester or school year is over.

MR. DE CASTRO. But nothing could prevent them to get out despite the fact that the university is compelled for his fixed tenure.

MR. VILLACORTA. That is the common practice now. However, if the Commissioner has any proposal that would give teachers some responsibility before they leave, we would be open to that.

MR. DE CASTRO. Does this education include language? Can we talk of language at this time?

MR. VILLACORTA. I understand that it is separate,. Madam President.

MR. DE CASTRO. I was intrigued by the concept of the Honorable Bacani especially when he mentioned Hongkong wherein the State is subsidizing private education and it is very, very successful. Even the Honorable Nieva during our merienda, told me how successful it is in Hongkong. Then I talked with Father Bernas and he said: "Well, this is even practiced in Germany"; Commissioner Nieva said this should include Belgium.

I noticed that on the provisions on education, there are 13 times where the phrase "the State shall" was used. So, it looks like this is really a state-controlled education, not giving the private sector an opportunity, like in Hongkong, Germany and Belgium, to formulate their own educational system which we found successful.

MS. ROSARIO BRAID. Madam President, on page 4, Section 5, there is this provision where the State shall encourage and may subsidize to a certain extent the establishment of educational foundations and cooperatively owned educational institutions. These are private institutions but they are nonprofit. In other words, there is a difference between proprietary educational institutions which really make a lot of profit that go to the proprietors and educational foundations that operate and are able to pay adequately their professors.

MR. DE CASTRO. Madam President, I am talking of the concept as expressed by Commissioner Bacani. It is successful in that private education, as in Hongkong, was subsidized by the State. In this case, the State is the one directing the whole educational system so that in five subsections, we have the phrase "the State shall." I am just saying my observations.

Thank you, Madam President.

MR. GASCON. .Again, we would like to emphasize that the provisions on education are just a reminder to the government of its role and responsibility in providing for the development of education, science and technology, and arts and culture. This does not negate the role that private institutions will play. However, we see very clearly that because education is primarily a service, the State should always assure that it is accessible; therefore, there is a bias for nonprofit and nonstock institutions and there is a discouragement for profit-making institutions in the educational system. The whole point is, we are not saying that the State shall take everything unto itself and shall not allow private schools to do its share. In as far as education is concerned, it should assure citizens of their accessibility to such.

With regard to the statement made by Bishop Bacani about the situation in Hongkong, where the schools are private institutions but the teachers are paid by the State, from my perspective, that is essentially public education because the State pays for the teacher. They may be part of a private organization but they are paid by the State. Therefore, it is essentially a public service already.

MS. ROSARIO BRAID. And where they are still private educational institutions, I think we are quite sure that the owners do not rake in a lot of profit. What we are saying is that there will still be subsidies as long as they are nonprofit. Take the case of Maryknoll Foundation now. We would like to encourage the conversion of proprietary institutions into foundations that will still be able to provide quality education, pay their teachers very good salaries, provide good facilities, but do not allow too much profits for an individual or few individuals.

MR. SARMIENTO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. SARMIENTO. May I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Madam President.

We now have a Ministry of Education, Culture and Sports. In this committee report, we have education, language, science and technology, arts and sciences; and with regard to sports, there is Section 3 (1) only on page 4.

MR. GASCON. Paragraph (i).

MR. PADILLA. Is that paragraph (i)?

MR. VILLACORTA. Yes, Madam President.

MR. PADILLA. I am sorry.

Does the committee believe that one paragraph in Section 2 is adequate to promote physical education and sports?

MR. VILLACORTA. We feel so, Madam President. However, we know that the Commissioner is very familiar with physical development, having been an Olympian in the past, and we would welcome very much whatever suggestions he might have.

MR. PADILLA. Thank you, Madam President. I started to learn amateur sports, to play basketball in the Ateneo with a very good Jesuit father as our coach. I learned it in the university. We have regular programs of athletic competitions, not only in the national collegiate association, the NCAA, but in the university league, the UAAP, and later under the Philippine Amateur Athletic Federation.

And we had scholastic programs; that is, the public schools sports program and the private schools sports program, the PRISAA; in addition, of course, to the athletic development program within the Armed Forces of the Philippines.

So, we had men like Congressman Simeon Torribio, an engineer, who was always a point-winner and a medal-earner in various world Olympic games in his favorite event – high jump. We had an army athlete, Teofilo Ildefonso, who was always a point winner in three or more world Olympic games in his event, the 200-meter breaststroke. We had an army athlete by the name of Miguel White who was a 1936 world medalist – although only a third placer, he could have been a second placer in his favorite sport of 400-meter hurdle. We had Anthony who was a silver medalist in boxing in the 1960 World Olympics held in Tokyo. He should have been a gold medalist.

On the other hand, our sports situation now is that even in Southeast Asia, that is, Indonesia, Malaysia, Thailand, Hongkong, Singapore, Burma or Brunei, the Philippines is only third or fourth in ASEAN competitions.

In Far Eastern games or Asian games where Japan, Korea and China are competing, the Philippines has always been a strong contender. In basketball, we have always been first in Asia, even beating Japan, China and Korea.

But now, notwithstanding the so-called *Gintong Alay* and the present system of sports development, we have sent some representatives to Seoul and we do not know what will be the result.

But what I am saying is, we have depreciated; we have deteriorated. Our standard of sports is something that we cannot be proud of, even as compared with the previous years, even before the war. If we will only have one little paragraph – paragraph (i), under Section 2 – we will not be developing the sports program. We cannot have healthy citizens, especially those who have potentials not only in national competitions but also in regional and even world competitions.

I think the Committee on Human Resources has given very little attention to sports. And as I see here, the first sentence may be all right – "The State shall promote physical education." Probably, this will encourage sports programs for the total development of a healthy and alert citizenry. I agree with that first sentence.

But towards this end, we again say "The State." I think we should just shift it to the schools – public and private colleges and universities. Even the Armed Forces of the Philippines or other private clubs should be encouraged to prepare competition programs of sports development from the barrio level up to the municipal, provincial, regional and national levels. Otherwise, we will further deteriorate.

I believe that the schools are the primary source of good athletes. And we have to overcome the wrong impression that a good student cannot be a good athlete. In many schools, people look down on an athlete believing that an athlete cannot be a good student or even an honor student.

So, I would recommend that the committee give more importance to sports rather than limiting it to one short paragraph on Section 2.

MR. VILLACORTA. The Vice-President's point is well taken and we will need his help in improving our provisions related to sports and physical development.

MR. PADILLA. I think we should also encourage amateur sports as distinguished from professional sports because the highest ideal of a student athlete is to make it to the Olympic national team. But now, it is no longer the noble purpose of an athlete to represent the country in regional and world competitions, but only to make few more pesos in professional boxing or professional basketball. We should discourage, for example, the importation of black American basketball players who are paid excessive fees and enjoying so many privileges.

MR. VILLACORTA. Yes.

MR. PADILLA. But that is the tendency of our present society and generation.

MR. VILLACORTA. I think Commissioner Quesada would like to say something.

MR. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. It might help to make the Vice-President feel good that the original intention really was to have a separate section on sports. As a matter of fact, there were several sections on it based on the proposal submitted by the Bureau of Sports Development of the Ministry of Education, Culture and Sports. But as we went through, reviewing the provisions, everybody commented on its length. It shrank into just one section, but should the Vice-President be amenable to reviving some of these, we will show him how we cut it down to just one section. We do appreciate the need to develop healthy and alert citizenry and, as a matter of fact, it was not conceived merely in the context of school activity or program but in the light of a total national sports development.

MR. PADILLA. I will be glad to have a copy of that proposal but I am not also an endorser of many long paragraphs. As a matter of fact, my personal criticism on the many committee reports is that they are very long, very numerous, sometimes repetitious and always using words like "integrated," "comprehensive" and other similar words. I have objected on these on some instances. I would like a simple and brief portion but as a mere paragraph (i) of Section 2. And I would be glad to contribute my effort in that direction.

Thank you, Madam President.

MR. VILLACORTA. Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. SARMIENTO. Considering that several Commissioners have registered to interpellate and that a good number of Commissioners have left the session hall already, I move to adjourn until tomorrow at nine o'clock in the morning.

THE PRESIDENT. Tomorrow Saturday, at nine o'clock?

MR. SARMIENTO. Yes, Madam President.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until tomorrow at nine o'clock in the morning.

It was 6:09 p.m.

R.C.C. NO. 70

Saturday, August 30, 1986

OPENING OF SESSION

At 9:33 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Minda Luz M. Quesada.

Everybody remained standing for the Prayer.

PRAYER

MS. QUESADA. Dear Heavenly Father, we come before You with contrite hearts.

Be with us today and the days ahead as we resolve to finish the challenging task of drafting our new Constitution that is acceptable to the majority of the Filipino people, and that truly reflects their interests and welfare.

We pray for our esteemed colleagues who are in the hospital – Commissioners Rosales and Treñas – and all others who are now experiencing some illnesses, possibly bbrne out of the stress and strain of our work.

Lay Your healing hands on them and strengthen us all in mind and body that we may remain whole when our task is done.

We beseech You, our gracious Lord and Redeemer, to also heal the wounds and the pain resulting from conflicts; help us to be tolerant of our differences, and

Help us to show our love for You and that Your love is in us not only in words but in our deeds and the lives we lead.

May Your light so shine before us that people may see Your glory in us all.

These we ask through Jesus Christ, our Saviour. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present	Nieva	Present
Aquino	Present*	Nolledo	Present
Azcuna	Present	Ople	Absent
Bacani	Present	Padilla	Present*
Bengzon	Present*	Quesada	Present
Bennagen	Present	Rama	Present
Bernas	Present	Regalado	Absent
Rosario Braid	Present	Reyes de los	Present*
Brocka	Absent	Rigos	Present
Calderon	Present	Rodrigo	Present*
Castro de	Present	Romulo	Present
Colayco	Present	Rosales	Absent
Concepcion	Present*	Sarmiento	Present*
Davide	Present	Suarez	Present*
Foz	Present	Sumulong	Present*
Garcia	Present*	Tadeo	Present
Gascon	Present	Tan	Present
Guingona	Present	Tingson	Present
Jamir	Present	Treñas	Absent
Laurel	Present*	Uka	Present
Lerum	Present*	Villacorta	Present
Maambong	Present*	Villegas	Present
Monsod	Absent		

The President is present.

The roll call shows 27 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection that we dispense with the reading of the Journal of yesterday's session? *(Silence)* The Chair hears none; the motion is approved.

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*Appeared after the roll call.

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. May I respectfully request some minor corrections before the approval of the Journal.

THE PRESIDENT. The Commissioner will please proceed.

MR. GUINGONA. On page 9, fifth line of the second paragraph, which states: "He stressed that notwithstanding the view," add S to "view." On page 17, first line of the third paragraph, which states: "Quality education, he maintained, would involve curriculum . . .," insert AMONG OTHERS between "involve" and "curriculum." On page 19, third line of the second paragraph, which states case of *"Lacer vs. Board of Education,"* change "Lacer" to LASSER; on the seventh line, change "Padre Bulan" to PADRIGUILAN; and on the ninth line, which states: "student was due to his deficiency," change "his" to HER.

On page 21, ninth line of the third paragraph, which states: "is that directed principally to students," change "principally" to ONLY, and finally on page 23, second line of the last paragraph, change "Chou Shuyui" to CHIA SIOUW YUE.

That is all, Madam President. Thank you.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; let the proper corrections be made.

MR. UKA. Madam President, I, too, would like to make just a one-letter correction on page 14 of the Journal, which is to add S to "messenger" to read: "Many great men of the world, he noted, were called teachers among them Moses, Buddha – the great MESSENGERS of God."

APPROVAL OF JOURNAL

THE PRESIDENT. We reserve the right of other Commissioners to submit their corrections to this particular Journal.

There being no further corrections at this moment, the Journal, as corrected, is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection that we proceed to the Reference of Business? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication signed by 272 members of the Catholic Women's League of Our Lady of the Miraculous Medal Parish, Project 4, Quezon City, seeking inclusion in the Constitution of a provision protecting the right to life of the unborn from the moment of conception.

(Communication No. 664 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Alliance of Concerned Teachers, 2866-C Zamora Street, Pasay City, signed by its Chairman, Mr. Raul E. Segovia, suggesting inclusion in the Constitution of a provision that "No Filipino should be barred from studying in any school for reason of religion, sex, political belief, or income.

(Communication No. 665 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Catholic Women's League of the Diocese of Antipolo, Rizal, signed by its President, Judge Salome A. Montoya, informing that the Diocesan Board passed unanimously a resolution calling for full and unqualified protection for the unborn child from the very moment of conception in the mother's womb.

(Communication No. 666 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mayor Henry D. Relleta of the Municipality of Jose Panganiban, Camarines Norte, transmitting Resolution No. 35-86, adopted by the Sangguniang Bayan of Jose Panganiban, appealing to the Constitutional Commission that the problem of American bases in the country be left to the incoming legislature to decide.

(Communication No. 667 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Telegram from the Atlantic Network Conference with participants from the Pacific, Indian Ocean, and Mediterranean, seeking inclusion in the new Constitution of a provision for a bases-free and nuclear-free Philippines for the sake of peace.

(Communication No. 668 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the American Division Post 45, Philippine Department of American Legion, Cebu City, signed by its Post Commander, Eleno Andales, urging the retention of the American military bases in the Philippines even beyond 1991.

(Communication No. 669 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Citizens Alliance for the Constitutional Protection of the Unborn, signed by Ms. Necy de Torres, schoolteacher, and two hundred forty-two employees and students of Canossa College, San Pablo City, Laguna, seeking to include in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 670 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Laurence G. Woolcox, a Canadian who migrated to the Philippines, requesting that resident immigrants be accorded equal rights based on the principle of reciprocity, particularly in the development of the economy.

(Communication No. 671 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Rudolfo P. Parreno of the Parañaque Bible Christian Church, Merville Park Community Center, Merville Park Subdivision, Parañaque, Metro Manila, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 672 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Telemessage from Mr. Lupo T. Carlota, Jr., Chairman, First National Convention of Filipino-Americans in the United States, 5300 Cottonwood, Memphis, Tennessee, U.S.A., urging the Constitutional Commission to include in the new Constitution a provision allowing natural-born Filipinos who have acquired citizenship in other countries to retain their Philippine citizenship.

(Communication No. 673 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Romeo C. Balandra of the Commission on Population, Region X, Cagayan de Oro City, transmitting a resolution of the Association of Law Students, Xavier University, Cagayan de Oro City, proposing amendments to Section 4, Article II and Section 10, Article XV of the 1973 Constitution for inclusion in the new Constitution.

(Communication No. 674 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Honorable Lino Brocka, Member, Constitutional Commission of 1986, dated August 28, 1986, informing that he has written to Her Excellency, President Corazon C. Aquino, about his irrevocable resignation from the Constitutional Commission of 1986 and requesting that the members of his staff be given their salaries until the end of the month.

(Communication No. 675 – Constitutional Commission of 1986)

To the Archives.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. The Chairman of the Committee on Constitutional Commissions and Agencies seeks first to make some statements before we vote on Second Reading on the Article on the Commission on Human Rights. May I ask that Commissioner Foz be recognized.

MR. FOZ. Madam President, copies of Proposed Resolution No. 539 were distributed yesterday. Before we vote on Second Reading on the Article, we would like to present some corrections for consideration by the Committee on Style.

1) On page 1, line 9, substitute the phrase “all of whom shall” with the words “WHO MUST.”

2) On page 2, line 1, delete the comma (,) after “guidelines” and add the word “AND,” so that it will read: “Adopt its operational guidelines AND rules of procedure . . .”

3) On the same page 2, line 7, delete the phrase “citizens of the Philippines” and in lieu thereof insert “FILIPINOS.”

4) On page 3, line 2, amend it to read: “Congress may provide for other cases of VIOLATIONS OF HUMAN RIGHTS.”

5) On the same page 3, line 3, insert a comma (,) between "Commission" and "taking."

Thank you, Madam President.

MR. RAMA. Madam President, I move that we vote on Second Reading on the Article on the Commission on Human Rights, as corrected by the Chairman.

THE PRESIDENT. Let us request first for a vote on the corrections submitted by the honorable chairman.

Is there any objection? *(Silence)* The Chair hears none; let the proper corrections be made.

The Floor Leader may please proceed.

MR. RAMA. Madam President, I reiterate my motion to vote on Second Reading on the Article on the Commission on Human Rights.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

May we ask the Secretary-General to read the title of Proposed Resolution No. 539.

THE SECRETARY-GENERAL. Proposed Resolution No. 539 entitled:

> RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS.

APPROVAL OF PROPOSED RESOLUTION NO. 539 ON SECOND READING

(Article on the Constitutional Commissions —
Commission on Human Rights)

THE PRESIDENT. As many as are in favor of this proposed resolution to incorporate in the new Constitution the provisions on the Commission on Human Rights, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(A Member raised his hand.)*

The results show 31 votes in favor, none against and 1 abstention.

Proposed Resolution No. 539, as amended, is approved on Second Reading.

The Chair inquires where this particular Article will be placed.

MR. FOZ. We have not decided yet but we would rather that this matter be resolved by the Committee on Sponsorship. I think it is within its competence to decide where just exactly to place this provision.

CONSIDERATION OF C.R. NO. 29

(Article on Education, Science, Technology,
Arts and Culture)
Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. Madam President, I move that we continue the consideration of Committee Report No. 29. We are still in the period of sponsorship and debate.

THE PRESIDENT. May we ask the honorable chairman and members of the Committee on Human Resources to please occupy the front table. I understand we agreed yesterday that the possible interpellation will be limited by subject.

MR. RAMA. Madam President, I ask that Commissioner Romulo be recognized.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Madam President, I beg the indulgence of the committee, if my questions have been answered yesterday afternoon because I was not present during the latter part of the interpellations, I have only a few questions to ask.

On Section 1, which indicates the purpose for which education will be given priority, it does not mention what I suppose is a primary function of education which is to gain knowledge. Is this purposely left out by the committee? What is its intention? I was just wondering how the committee was handling that.

MR. VILLACORTA. Is the Commissioner referring to the omnibus Section 1?

MR. ROMULO. Yes, the omnibus Section 1.

MR. VILLACORTA. We felt that it was already assumed that one of the objectives of education is the provision of knowledge. So we felt that enumerating it was not necessary. However, if the Commissioner has any proposal to that effect, we would be open to his suggestion.

MR. ROMULO. Thank you.

The other point for clarification is with regard to page 3, subparagraph (f) concerning the requirement for multisectoral bodies. Does the Commissioner feel that this is something that the committee should compel each educational institution to create and organize or should this not be left to the constituencies of each educational institution?

MR. VILLACORTA. We feel that this should be a requirement because this will ensure broader-based set of decisions and policies for each school. I think this is also addressed to the idea that the State and the parents have as much at stake as schools in the education of their children. Moreover, this would defuse potential conflicts before they arise.

MR. ROMULO. With regard to Section 3 on fiscal autonomy, what exactly is the meaning of the provision when it comes to private institutions of learning? How can we guarantee fiscal autonomy?

MR. VILLACORTA. I think the details of this would be left to Congress, but the general principle behind this is that institutions of higher learning; namely, colleges and universities, would have much more effectiveness if they are left to themselves in determining their fiscal policies.

MR. ROMULO. With regard to private institutions of higher learning, does fiscal autonomy mean their ability to regulate their tuition and the other fees that they may charge?

MR. VILLACORTA. Yes, Madam President.

MR. ROMULO. Is this part of fiscal autonomy?

MR. VILLACORTA. This is part of fiscal autonomy, Madam President. May I just add something to that. Just to allay the worries of parents and students, the other provision which requires multisectoral bodies to sit in would be the balancing factor, the check against onerous tuition fees imposed on the students.

MR. ROMULO. So, in a way, this includes the concept of deregulation with regard to tuition and other fees.

MR. VILLACORTA. That is right, Madam President.

MR. ROMULO. Is the second paragraph of Section 4 still necessary in the light of the provisions in the Social Justice Article, Bill of Rights and the current labor laws?

MR. VILLACORTA. We felt that it was necessary because, first, teachers, researchers and academic employees – academic in the sense that they work in schools – belong to a different category. They do a different kind of work which is not exactly identical to that which is done by the regular laborers. That is why we felt that this should be emphasized – that the academic and nonacademic personnel have the right to form associations and to undertake concerted activities.

MR. ROMULO. I have one other question under education which I missed. I wanted to be sure I understood what was meant by compulsory education through the elementary level. Are we saying that the student is compelled to attend classes up to the elementary level? Is that the meaning or is the compulsion addressed to the State?

MR. VILLACORTA. This is addressed to both the State and the parents of the children. As explained by Commissioner Guingona yesterday, there is jurisprudence that backs up this provision which is found in other Constitutions as well. The main purpose of this is to insure literacy among the younger segments of our population.

MR. ROMULO. This, of course, assumes that the necessary school buildings and teachers are there.

MR. VILLACORTA. That is right.

MR. ROMULO. And does the committee contemplate that this will follow some of the practices abroad on truancy and the policing of students who do not go to school?

MR. VILLACORTA. I understand that the model for enforcing this, as it is implemented abroad, will be followed but, of course, within the constraints of a presently developing country such as ours. We may be reminded of the fact that although there is compulsory education through the elementary level under the present Constitution, the enforcement of this is very much limited because of the unavailability of school buildings in many parts of the country and the lack of enforcement agencies to implement this.

MR. ROMULO. Are we leaving the implementation of this provision to Congress or to the Ministry of Education?

MR. VILLACORTA. We leave the implementation to the Ministry of Education.

MR. ROMULO. Thank you, Madam President.

MR. VILLACORTA. Thank you.

MR. RAMA. Madam President, just a few questions of the committee. Page 3, Section 2 (c) reads:

> Private educational institutions shall be owned and administered solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens.

The Commissioner is aware that there are some missionary schools in places which no other organization would dare go because they are hazardous. I think there are such schools up to now in the Cordillera. Does the Commissioner think that we would not encourage the establishment of these missionary schools in such places to give our youth education under this provision?

MR. VILLACORTA. Madam President, we acknowledge the very important contribution of the missionary schools, and this provision is not aimed to close down these schools. However, this is just a matter of hurdling certain legal technicalities which they can easily address to. This was discussed thoroughly in a hearing we had with the Fund for Assistance to Private Education in which heads of private schools were present. Dr. Marcos Herras, who was the Dean of Student Affairs, Adamson University and a legal specialist on this matter, pointed out that there will be no problem because it is just a matter of transferring ownership rights to the local counterparts of these missionaries, whether Protestant, Catholic or from other denominations. In the case of Catholic nuns, like the case of a group of Italian nuns who do not have local counterparts because they do not have a resident religious order here, then they can link up with the archdiocese of the province where the school is located.

MR. RAMA. The Commissioner is aware that with the interpretation of this provision, there are some implications which would be against the setting up of these institutions by missionary boards, religious orders and charitable organizations. The 1973 Constitution precisely contains this exception which says:

> Educational institutions other than those established by religious orders, mission boards, and charitable organizations, shall be owned solely by citizens of the Philippines.

In the face of this situation where this particular exception had been removed from the new Constitution, then there would be some difficulty for schools established by religious orders and charitable organizations to continue their task in the places they are now.

MR. VILLACORTA. As I said, Madam President, we do not mean to limit their ability to go ahead with their evangelical and educational tasks. It is just a matter of encouraging them to link up with their local counterparts; after all, there are Filipino missionaries, priests and nuns. And if they are not around, then they could link up with the archdiocese in the area.

MR. RAMA. So, if we are agreed that these schools have some good contributions to the country, then I think we should restore the saving clause of the 1973 Constitution in the draft Constitution to avoid the misconception that we are discouraging them.

MR. VILLACORTA. The idea, Madam President, is really to ensure that even if they are religious schools and organizations they do not lose sight of their Filipino character. I think the Commissioner is aware of the cases of some religious schools where there were conflicts between the Filipino and the foreign administrators that run those schools and this is precisely what we want to avoid. It is borne out by the experience of many schools, Ateneo and La Salle included, that when Filipinos took over there seems to have been an improvement in the social orientation and nationalistic content of the schools. I do not know whether Father Bernas, President of the Ateneo de Manila University, will bear me out. So that is precisely the purpose of this provision, Madam President.

MR. RAMA. Yes, but there are certain facts of life that we know that exist. First, many of these religious schools are very good schools. They are quality schools, like La Salle, Ateneo and University of San Carlos. With this provision, we discourage these quality schools. A big problem now is not these religious schools that may be partly owned by the religious orders, but the schools which are "diploma mills." We should not close down quality schools. What we should close down are schools which are "diploma mills." This should have been the thrust of this proviso.

MR. VILLACORTA. Madam President, with this provision the so-called quality religious schools will not be closed down, because most of them had been Filipinized.

MR. RAMA. But the effect of this provision would be to close down some of these quality schools or to change the ownership of these quality schools, which could also change the quality and standards of the schools.

MR. VILLACORTA. No, Madam President, we discussed this lengthily yesterday. Commissioner Tingson brought up the example of the Faith Academy which is a very fine school run by foreign Protestant missionaries and we said that since that school is primarily for temporary residence, for the children of foreign missionaries, it will be covered by the last sentence which says:

> The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, unless provided by law.

MR. RAMA. But there are other consequences that would follow from this provision. Let us take the case of University of San Carlos which is a very good educational institution. Because of the presence of some of the German priests who are really very good teachers and scientists, the institution is able to get a lot of equipment, apparatuses and donations from Germany. If we change the complexion of that school, it is possible that the university's patrons would not be as helpful as before to the school.

MR. VILLACORTA. Commissioner Gascon would like to say something, but before that I would like to point out that the religious schools that have been Filipinized are at present not suffering from donations from church foundations, as well as other foundations. I would like to cite the example of Indonesia where there are lots of Protestant and Catholic schools at all levels that are given priority, as a matter of fact, by German and other European foundations, as well as U.S. and

Japanese foundations, precisely because they are private and sectarian universities. But more important is that they provide quality education. It has nothing to do with the ownership of the schools, and I think that should allay the Commissioner's worry, Madam President. If I may be immodest, I would like to say that I know this from firsthand experience because I was the Secretary-General of an association of Protestant and Catholic universities throughout Asia for five years and I know that these schools which are owned by their respective nationals are not suffering from want of donations.

Madam President, Commissioner Gascon would like to say something.

MR. GASCON. Basically, Commissioner Villacorta has already stated the intent of the provision, which is to encourage new foreign-assisted schools that are doing the trailblazing to link up with Filipino counterparts. It is not the intent of the provision to discourage them.

Secondly, Filipinization does not mean that we will disallow foreigners from teaching in the schools or from providing expertise. And this would relate to what Commissioner Villacorta has already said that assuming we Filipinize or encourage the Filipinization of schools run by certain religious orders to provide control and administration to Filipinos, it does not necessarily mean that there will be lack of contributions and donations from abroad. I graduated from a Catholic high school run by Filipinos and it is not lacking in donations from its foreign counterparts abroad. So it does not follow that they will be lacking in donations. What we would like to assure is that in the running of a school, the values being encouraged are Filipino values.

MR. RAMA. Let us get down to specific situations, to brass tacks.

I have a foundation in Germany. I would like to donate certain money or apparatuses to another school in the Philippines. I feel more comfortable, if people who are also members of my own religious order would be there owning part of the school or administering it.

MR. GASCON. That would actually be the case. For example, in a particular religious order, there are many nationalities. Hence, it does not follow that there has to be a foreigner running that particular religious order.

I would like to cite an example very clearly. I come from Don Bosco. The Salesians running the Don Bosco schools are now Filipinos and they have been getting a lot of donations from Germany and Italy, even up to this point in time. It is true that there are foreigners teaching and administering there; but the schools are already run by Filipinos.

MR. RAMA. However, there are some exceptions, and I am thinking of the University of San Carlos. Millions of dollars worth of equipment have been sent to the University of San Carlos by the Foundation of Divine Word in Germany. The Foundation concluded that since their people are also administering the said university, then those equipment would be used properly.

But the point is that when we eliminated this provision in the 1973 Constitution, we gave wrong signals and instead of encouraging quality schools aided and assisted by the people from abroad, we would be discouraging all of them. We discouraged the setting up of schools in far-flung areas for the poor people who are unreachable. Since we do not have enough funds, then we will be discouraging these missionaries to establish schools in our country.

That is my point.

MS. ROSARIO BRAID. May I just respond, Madam President. What we mean here is that the governance, meaning the board of trustees and the ownership should be Filipino, but that it does not preclude that a senior member of the administration, such as the Vice-President for research and planning or for development, who is in charge of fund raising, could be the link with foundations abroad. Until recently, the Vice-President in La Salle was not a Filipino, but this situation works out and we can have several models of this type where they still could be a link in a top position.

MR. RAMA. But this Section 2 (c) does not support that interpretation because it states clearly: "Private educational institutions shall be owned and administered solely by citizens of the Philippines."

So, I hope the body shall consider and give more thought to this.

I have another question on Section 4, page 4, which reads:

> Teachers, researchers and nonteaching academic personnel shall enjoy the special care and protection of the State.
>
> Academic and nonacademic personnel shall have the right to form associations or organizations.

What does this phrase "nonacademic personnel" mean? Does it mean the employees of the school, like the clerks, registrars, janitors, gardeners?

MR. VILLACORTA. That is right.

MR. RAMA. They are entitled, of course, to the right to form association; but this is a little bit disturbing because almost the same phrase is used in Section 2 (f) which reads:

> All educational institutions at all levels shall be required to form multisectoral bodies composed of students, faculty, parents, nonteaching staff, administrators and other representatives to participate in the formulation of school policies and programs, the details of which will be provided by law.

Here, almost the same personnel, the nonteaching staff, are commissioned to participate in the formulation of school policies and programs. My question is: Does the Commissioner think that we are going overboard by allowing clerks, gardeners, janitors to formulate school policies and programs? This is on page 3, line 21 of Section 2 (f). Is it necessary for these nonteaching staff, like clerks, messengers, gardeners, janitors to participate in the formulation of school policies and programs?

MR. VILLACORTA. The impression given is that gardeners and janitors will certainly be the ones representing the nonteaching staff in these multisectoral bodies. Usually, they would choose the most equipped among them, probably the one with the highest level of education, like the secretary or the clerk, an administrative assistant, or an accountant who will represent them. But let us just suppose that in a school, a gardener is the representative of the nonteaching staff in the multisectoral body. What is wrong with that? I think the gardener has much interest in the affairs of the school as an accountant or a professor would have; after all, that one person representing that nonteaching staff is only one of the five or more representatives in the multisectoral body.

MR. RAMA. But does not the Commissioner think that when we speak of school policies and programs that would require some technical knowledge we could limit this to people with some expertise and technical knowledge about the school curricular programs? This should be limited to people with some knowledge; otherwise, there will be a lot of aberrations here if we allow everybody to participate in such a very technical procedure.

MR. VILLACORTA. I appreciate the Commissioner's apprehension because I think he is thinking of academic policies. But, as it says here, "the details of which will be provided by law." Congress may delineate those areas in which the multisectoral bodies would have participation. I would like to mention that this experiment works very well in at least two institutions of higher learning that I know: De La Salle University and Maryknoll College. I am not too sure about St. Scholastica's College and Ateneo; maybe Father Bernas can enlighten us on that. But we have a Latin term *quinque* which means five. This multisectoral body should be composed of five representatives in which parents, teachers, administrators, nonteaching staff and students are represented, and the system is doing fine. The representative from the nonteaching staff is a computer operator.

The importance of involving the nonteaching staff in the formulation of school policies is that they are the ones who provide the brawn, and sometimes the brains in the implementation of policies, programs, and without them there will be no operation, no maintenance of the physical facilities of the school. Moreover, this affords greater harmony within the academic community because the incidence of labor frustrations, unrest and labor dissatisfaction is minimized and staved off because they have a say in the formulation of policies.

MR. RAMA. Thank you.

I hope the committee would not mind doing some rethinking on the provisions I have taken up.

Madam President, may I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Madam President, I just want to ask a question on one point; this will not take long.

This has reference to Section 1 (b) which states:

> The State shall establish and maintain a system of free public education at the elementary and the secondary levels.

In the 1935 Constitution, the guarantee for free public education is only up to the primary level. In the 1973 Constitution, this was increased to elementary, and, "where finances permit," up to the secondary level. In this provision, we make it unconditional while the 1973 Constitution says: "The State will give free secondary education where finances permit." We eliminated that condition there; it is categorical here.

I do not know, but my impression is that our finances at present are much worse than the finances in 1935 and 1973. We are in a serious financial crisis. I wish we could really comply with this commitment – unconditional free public elementary and secondary education. But I repeat: I would not want to raise false hopes among our people. I would not want any provision in our Constitution which cannot be implemented because of lack of funds. Has the committee made a study on whether or not the financial condition of our government at this very crucial moment in our history can sustain free public elementary and secondary education?

MR. VILLACORTA. Thank you. We appreciate the Commissioner's concern.

First of all, the idea is to highlight the importance of education in national development so that the government will give the priority that education deserves in the preparation of the national budget and in setting its priorities.

As we know, education has been neglected by most of the previous governments and it has been a continuing cry of public schoolteachers that their salaries are very much neglected and the conditions, not only of the teachers but of public school students, are not given the attention that they deserve. Secondly, in response to the Commissioner's question whether or not we have made a study, we requested Dr. Adrian Arcelo, a noted economist, who specializes in the economics of education, to undertake the study for us. It was a cost analysis that he made. I am not too sure whether it is included in the handout that we circulated. If it is not, then we will include it. Dr. Arcelo started his study with two assumptions. First, he assumed a one-hundred-percent participation rate – that is, all children within the elementary and secondary school age bracket will be in school. The second assumption of the study is that the ratio of public to private is unchanged at 94 percent for public elementary and 57.4 percent for secondary and the balance is in the private education sector. Also, he said that to provide free public elementary and secondary education, the present budget will have to increase by P10 billion which is a ten-percent increase of the present budget allocated for education. Commissioner Guingona would like to elaborate.

MR. GUINGONA. May I restate briefly what I said yesterday. This is more an expression of an objective and it is, in effect, a mandate to the State, as our distinguished chairman has said, to give top priority to education. This means that in the allocation of the budget, they should give more percentage to education vis-a-vis the other services or operation.

MR. RODRIGO. Is it a mere statement of objective or is this a commitment? The way I read it, it is a commitment of the State.

MR. GUINGONA. It is more a statement of objective, but it is a mandate to the State to give top priority and to seek sources of revenue in order to be able to comply with the mandate. In effect, what we are trying to say is that this type of secondary education should be provided by the State at the earliest possible time and not at the earliest convenience of the government. In other words, it is not the government that will decide; it is the Constitution that decides that education has top priority and that it is the obligation of the State, in compliance with the duty to provide secondary education, to look for ways and means to bring this about. Of course, it cannot be done overnight but we predict that it can be realized by gradually increasing the percentage of the share of education in the appropriations, coupled with economic recovery plus other measures such as the private contracting scheme that we have discussed. We cannot have full compliance if that is what the Commissioner is thinking about.

MR. RODRIGO. Yes, then why make them hope?

I think the reason why the 1973 Constitution added the phrase "where finances permit" is because they did not want to raise false hopes in the minds of the people. They did not want the government to make a commitment which it could not comply with. Hence, they were frank about the phrase "where finances permit." But now we want to make the commitment categorical.

When I was in the Senate, from 1955 to 1967, the biggest allocation had always been for education. But in spite of that, only free primary education could be afforded by the government. Now we are in dire financial crisis and still we make this categorical commitment. People will now say: "Ha, there will now be free high school education!" In all probability, more graduates of the elementary schools will go to high school because it is free. There will be many students in the private schools who will transfer to public schools because of free tuition fee. Suppose we do not have the money, what will happen?

MS. ROSARIO BRAID. Does not the Commissioner think it is a matter of rationalizing the budget? For instance, in terms of some perspective on comparative expenditures, as the Commissioner has stated in the 1950 Budget, education constituted 32.3 percent of the total.

MR. RODRIGO. The biggest, yes.

MS. ROSARIO BRAID. However, in the 1970's to the first half of the 1980's, the allocation for education went down to 17.47 percent. At the same time, the budget for national defense rose to as high as 284 percent. So, with this kind of an allocation from the entire national budget, I am trying to see how we can return the emphasis on education.

MR. RODRIGO. But as I was saying, even in the 1950's when the emphasis was on education wherein the budget allocation for education was 32 percent, the government was giving free primary education only.

MR. GASCON. Exactly, but at that point in time, education was receiving the highest allocation. In fact, it received up to 35 percent. However, in the recent years, it went to as low as 8 percent and this year it is only 12 percent. It is the belief of the committee that if we make a commitment in the Constitution that this allocation for education should be increased in the long run, then, we could afford free secondary education.

Second, I would like to react to the statement in the 1973 Constitution. If the phrase "where finances permit" were to be retained, those who have the responsibility of disbursing funds for educational institutions could always have a constitutional excuse. It is this avoidance of public duty as protected by the Constitution that seeks to avoid the deletion of this provision. Of course, if there is a factual finding of lack of funds, this provision would not be enforceable yet against the State. However, it is the intent that, in the long run, there should be free education up to the secondary level. We believe that this can be done in the long run.

MR. RODRIGO. In the long run?

MR. GASCON. Yes.

MR. RODRIGO. That is not how it appears here. The way this is worded, our people will be expecting that the moment the Constitution is ratified, there will already be free elementary and secondary education. But, as I said, even in the 1950's when the highest allocation was for education, the government could afford to give only free primary education. Secondary education was not given free.

That is all. I just want to have that in the record because, as we must have noticed, whenever we discuss a provision in the Constitution, I look at its implementation. Is it practical or are we giving false hopes – hopes which will not be complied with, which will not be fulfilled – thereby, frustrating our people who will be blaming the Members of the Constitutional Commission? Why did they pass a provision like this? Even the Members of Congress will say, why did they inflict this provision on us? Where will we get the money? I just want to have this on record.

Thank you very much.

MR. RAMA. Madam President.

MS. ROSARIO BRAID. These estimates by Dr. Arcelo were done on the basis of conventional educational system of P10.47 billion. But we have also cost estimates of how much it would cost to use distance education by radio and it would cost much less to deliver primary and secondary education by radio. This has been done in terms of cost estimates. So, in the future this is a possible estimate that what cannot be done by the educational system on the basis of conventional costing could be much less expensive by using radio as a delivery system.

MR. RAMA. Madam President.

MR. RODRIGO. That is something new, something very novel. So, if we cannot afford it, then we will tell our people: "The Constitution says you will have free secondary education but we cannot afford it, so we will give you secondary education by 'radio'."

MS. ROSARIO BRAID. No, we are thinking not of next year but of the future. There are many countries now which are delivering this type of education by nonconventional means which is actually less expensive than the conventional means of building more classrooms and hiring more classroom teachers. This is really something that can be implemented in the next five years although we are much behind, considering that this is used in many other developing countries now. So, we are just considering this as an alternative delivery system.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Just one word. When the Members of the Constitutional Convention of 1935 provided for free primary education and the 1973 Constitutional Convention delegates provided for free elementary education, they did not expect that there will be free primary or elementary education overnight, complete and full. As a matter of fact, up to now it is not complete and adequate. But the fact is without the provision, matters would have been worse. We are making a Constitution not only for the foreseeable future but for centuries. Therefore, we expect that after a reasonable interval this provision should and could be implemented.

MR. RAMA. Madam President, may I ask that Commissioner Tadeo be recognized.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Ginang Pangulo, mga Komite sa Kasanayan at Kakayahan ng Tao: sang-ayon kay Rizal ang edukasyon ang tiyak na landas ng pagbabago. Sinunod niya ito: "Sabihin mo sa akin kung anong klaseng edukasyon mayroon ka at sasabihin ko sa iyo kung anong klaseng bayan mayroon ka." Kaya makikita natin ang kahalagahan ng edukasyon, ang tinatalakay natin ngayon. Kung ano ang uri ng edukasyon, siya ring uri ng ating bayan.

Sinabi ni Rizal, "Nasa kabataan ang pag-asa ng bayan." Ano ang ibig niyang sabihin? Para kay Rizal, ang edukasyon ay tagapagtulak ng pagbabago. Para kay Rizal, ang edukasyon ang magpapalaya sa atin. Kaya noong sabihin niya na nasa kabataan ang pag-asa ng bayan, ang ibig tukuyin ni Rizal ay ang mga kabataang dadaan sa tamang paaralan.

Ano ang edukasyon sa magbubukid? Sinabi niyang ang edukasyon sa magbubukid ay tulad lang ng isang puting papel. Kapag inilagay mo sa paaralan, kung ano ang isulat mo ay siyang magiging katauhan ng bata. Para sa magbubukid, iyon ang molde o hulmahan.

Kaya makikita natin ang kahalagahan ng edukasyon. Ngunit makabubuting lingunin muna natin ang nakaraan. American colonization of the Philippines at the turn of the 19th century was often pictured as an act of magnanimity upon Divine inspiration. White man's burden and manifested destiny were the answers to the uncivilized people who were deemed unfit to govern. Dahil tayo raw ay hindi maaaring mamuno, ipinadala ang 600 Tomasites. Iyon ang simula ng maling edukasyon ng mga Pilipino. Ibinigay sa atin ang kalayaan noong July 4, 1946 ngunit isang bihag na bansa pa rin ang Pilipinas. We are politically, economically, and culturally captives.

Tingnan natin ang pamamaraan ng ating edukasyon. Ang pamamaraan ng ating edukasyon ay tinatawag na "banking concept of education." Ano ang ibig sabihin ng "banking concept of education"? Iyon lamang silid nang silid. Inalis sa atin ang pagiging palaisip o critical awareness. Tinuruan lamang tayong magkabisa. Itata-

nong sa atin: Alin ba ang kapital ng Pilipinas? Quezon City. Iyan ang banking concept; hindi ginamit ang problem-posing na tanong. Bakit ba ang Quezon City ang kapital ng Pilipinas? Kung problem-posing ang ating gagamitin, tinuturuan mo ang mga bata ng critical awareness. Tingnan natin ang ating mga aklat. Ginamit natin ang aklat na isinulat ni Zaide. Ito ay nagtuturo ng kasaysayan ng Pilipinas. Isinasaad dito na ang mga Pilipino ay bandido at ang bayani ay ang mga Amerikano at mga Kastila. Salamat na lamang at sumulpot ang aklat na *History of the Filipino People* ni Agoncillo at ni Alfonso. Ipinakikilala ang kadakilaan ng mga Pilipino at kung paanong naging bandido ang Amerikano at mga Kastila.

Noong ako ay dumalo sa interdisciplinary forum tungkol doon sa alternative economies sa UP, sinabi nila na tinuruan tayo ng ating edukasyon ng consumer's mentality sa ating ekonomiya. Wala tayong iniisip kung hindi bumili, bumili at bumili. Hindi tayo tinuturuan ng ating edukasyon para lumikha.

Sinasabi nila na sa buong Asia, sa Pilipinas lamang itinuturo ang free trade. Sa buong Asia, ang itinuturo ay economic protectionism. Sa ganitong kalagayan sumunod ang PRODED ng World Bank. Tuloy ang pagdaloy ng kaisipang dayuhan pagkatapos ng 1980 Education Code na isinagawa ng Ford Foundation.

Sa kabuuan, ang ating edukasyon ay hindi naging catalyst of social change, sa halip ito ay naging conformist ng status quo. Sa ganitong kadahilanan noong tinitingnan ko ang Artikulo sa Edukasyon, parang may nadama akong kulang sapagkat binabanggit ninyo rito sa unang seksyon:

> The State shall give priority to education, science and technology, arts and culture for the purpose of fostering national pride and identity.

Ang ibig sabihin ng "pride and identity" ay kinakailangang ang bata ay dumaan sa isang edukasyon. Kinakailangang ang ating edukasyon ay tumugon sa pangangailangan ng ating bayan. Kinakailangang ang aklat nating ginagamit ay nagmumula sa mayamang karanasan ng mga Pilipino. Sa Singapore na pinanggalingan ng ating Pangulo, ang thesis ng mga mag-aaral ay kung paano magagawang pataba ang basura; marahil ang magiging thesis pa rin nila ay kung paano ang baha ay susugpuin sa Metro Manila. Ang ibig sabihin, kailangang ang edukasyon ay tumutugon sa pangangailangan ng sambayanan, isang edukasyong mapagpalaya, isang edukasyong matatawag na catalyst of social change. Kaya gusto kong itanong sa komite: Nasaan ang edukasyon na nagpapalaya at matatawag na "catalyst of social change" sa inyong ginawa? Anong seksyon ito?

MS. ROSARIO BRAID. May I answer that? Commissioner Tadeo pointed out the concept of national pride and identity. However, on page 2, we added the concept of nationalism and also on the same Section 2 (a), line 20, we added the phrase "critical and creative thinking" because we believe, like Commissioner Tadeo does, in the concept of expanding the frontiers of justice and freedom. These concepts support the Commissioner's arguments for examining the present content and processes of education which will conform to the need now for critical thinking in the approach of departing from banking methods of learning and of coming up with the method of putting the emphasis on the learner in terms of "conscientization" and creative learning. This is what Commissioner Tadeo is talking about and it is already built-in into our concept of independent study. If the Commissioner will note on page 2, Section 1 (b), the words "self-learning" and "independent" study programs mean the acknowledgment that the learner is the most important member of the learning process. Therefore, the concept of independence puts primacy on the need to develop his critical tools. We agree with Commissioner Tadeo. We wrestle with the problems of consumer-oriented people versus producer-oriented people as goals of education. We wrestle with the concept of creating entrepreneurs who will make jobs or create jobs rather than seek jobs which is really our orientation now. Everybody wants to be an employee rather than creating his own niche in society. So, these concepts of what we want our people to be, I think, are supportive of what the Gentleman is saying. So, I hope he will agree, but if he has other additional comments, we would welcome them.

MR. TADEO. Gusto ko kasing magsusog sa line 15, Section 1 (a), pagkatapos ng "The State recognizes its duty of providing education to all citizens," ng mga sumusunod: "FOUNDED ON THE PRINCIPLE THAT EDUCATION IS A PROCESS OF LIBERATION CATALIZING SOCIAL CHANGE."

MR. VILLACORTA. Isasaalang-alang namin ang mungkahi ni Commissioner Tadeo.

MR. TADEO. Ang susunod kong katanungan ay: "Education is the right of every citizen of the Philippines." Ito ay isang karapatan. Kung ito ay isang karapatan, ang karapatan ba ng isang mayaman ay karapatan din ng mga dukha pagdating sa edukasyon?

MR. VILLACORTA. Oo. Ang karapatan ng mayaman ay karapatan din ng mahirap sapagkat sinasabi rito "every citizen." Kung kaya, lahat ng mamamayan.

MR. TADEO. Gusto ko lang magbigay ng mga ilang statistics na sa 100 na mag-aaral na bata na pumasok sa Grade I, ang nakapagtatapos lang ng kolehiyo ay tatlo. At gusto kong basahin sa inyo ang statistics na ito:

> The Philippines which has the highest literacy rate in Asia ironically has the lowest literacy growth rate for the past 20 years. From 1960 to 1980, the country's literacy rate grew only at 4.2% a year compared to China's whooping 60.5%; Indonesia, 59%; Thailand, 26.5%; Korea, 31%.

Sa loob ng 20 taon, 1960-1980, ang ating lamang literacy rate ay 4.2 percent.

MR. GASCON. Madam President, sa usapin ng literacy, medyo nag-improve na ng kaunti ang Pilipinas at umabot na tayo sa 10 percent. Pero mababa pa rin kung ikukumpara sa iba pang mga bansa sa Southeast Asia. Iyon namang statistics na nabanggit, totoo ang mga iyon. Sa bawat 100 na pumasok sa Grade I, ang latest ay 13 ang magtatapos ng kolehiyo; 62 na lang ang aabot ng Grade VI; 33 na lang ang aabot ng fourth year high school.

MR. TADEO. Kaya ko tinanong kung ang karapatan ng mayaman ay karapatan din ng mahirap ay dahilan sa ganitong kalagayan. Ang tawag sa ating edukasyon ay pangmayaman lamang. Siyempre pa mayroong tinatawag tayong economic power. Kung sino ang may economic power, siya ang tutuntong ng paaralan; at kung tumuntong siya ng paaralan, siya rin ang maykapangyarihang humawak ng political power. Kaya ang sinasabi ko, kung ang karapatang ito ay karapatan din ng mahirap, may pagkakataon na ang mga dukha ay hahawak din ng political power.

MR. VILLACORTA. Madam President, kaya nga namin binibigyan ng halaga at ibig naming ang buong estado ay bigyan ng pangunahing halaga ang edukasyon ay sapagkat ito ay isang behikulo upang bumuti ang kalagayan sa buhay ng mga mahihirap. Ito ay isang instrument of social mobility. At nakikita natin na may kaugnayang direktamento ang edukasyon at literacy at ang katayuan ng tao o ng isang nasyon. At iyong mga bansa na mataas ang literacy ay mataas din ang kabuhayan, higit na mabuti ang kabuhayan ng mga mamayan.

MR. TADEO. Ngayon, dito sa Section 1 (b) ay magkakaroon kami ng pagkakaiba ng aking kababayan na si Commissioner Rodrigo dahil ang sinasabi niya ay magkakaroon ng free public education hanggang sa secondary level. Ang mungkahi ko sa Section 1 (b) ay: "The State shall establish and maintain a system of free education IN ALL LEVELS. Education shall be compulsory ON the elementary level."

Ipapaliwanag ko po ang dahilan. Education is something the State should provide for all. Its value should be recognized not only in the elementary level, where it should be free and compulsory, but also where such education has taken conscious importance in the life of the student in his mature years, especially when he is about to enter college. The argument against free public education all the way to college based on financial constraint of the government will not hold water when the same government is being pressured to support financially through exemptions and subsidies the private schools, including proprietary schools.

Scholastic records and some forms of periodic examination, as requirement to college education, should serve as control to screen out unprepared and unqualified entrants to state colleges and universities. A college graduate who went through the rigors of academic life is always a better citizen, and his ability is higher than a high-school graduate who cannot continue college for economic reason. A citizen who has developed his potential through education has more to contribute than one who, though qualified, failed to develop because he could not afford to pay for his college education. The first is not only a creative but a positive contribution to the social group. The second is not only a loss in state investment during his elementary and high school but a risk. Sayang lang ang investment sa elementarya at high school kapag hindi mo siya pinatuntong ng kolehiyo.

The rigorous test for qualifying to enter college should be equally applied to those who could easily afford college expenses because they come from rich families. A tertiary education, therefore, should not be a privilege of those who can afford to pay but a right of all Filipinos qualified academically to pursue tertiary education.

MR. VILLACORTA. Sumasang-ayon kami sa mga binasa ni Commissioner Tadeo.

MR. TADEO. Ang susunod na katanungan: "The State shall establish and maintain a system of free public education." Bakit hindi naman natin gawing "free private education"? Bakit hindi natin inilagay kahit man lamang hanggang elementarya?

MR. VILLACORTA. Sino ang magbabayad, Madam President?

MR. TADEO. Kasi ang tanong ko lamang sa komite ay ito: Ang education ba ay service o profit?

MR. VILLACORTA. Itinatanong ninyo sa akin?

MR. TADEO. Sa komite. Ano ang tanaw ninyo sa Section 1? Ang education ba ay service o profit o business?

MR. VILLACORTA. Ang edukasyon ay service siyempre sa lipunan.

MR. TADEO. Puwede siguro nating ilagay dito na magkaroon ng free education sa private hanggang elementarya man lamang dahil ang education ay service.

MR. VILLACORTA. Maganda ang adhikain na iyan, ngunit maaari po bang bigyan kami ng ideya kung papaano ang mechanics nito?

MR. TADEO. Oo.

The next question is: Section 1 (c) states that the State shall ensure equal access to education. Has the committee considered equal access to education regardless of sex, religion, political beliefs and income?

MR. VILLACORTA. Iyon ang kahulugan nito.

MR. TADEO. Isinasama ko rin ang edad ng bata dahil kapag nahuli ang bata sa pag-aaral ay napakahirap nang maghabol. To us, education is a process much similar to nutrition. It must be provided at the appropriate time, at the right amount, and it should be regular, without interruption, so that the individual will gain full realization of his productive potential as an agent of social change.

MR. VILLACORTA. So, ito ay walang kinikilala o kinikilingan kapag sinabi naming equal access and opportunity.

MR. TADEO. Isang mahalagang mungkahi ko ang isasama rito: ang integration with the people. Dapat kasama sa curriculum ang anim na buwan na integration with the people. Bakit ito kailangan? Dahil ang edukasyon ay hindi natatapos sa apat na sulok ng kuwarto. Kinakailangang lumabas siya sa larangan ng buhay. Kung mayroon siyang six months para pumunta sa kanayunan, hindi siya magiging hiwalay sa sambayanang Pilipino. Mula sa teorya, lalabas siya sa praktika ng buhay. Kaya kinakailangan maging bahagi ng curriculum ang integration with the people.

MR. VILLACORTA. Ang ibig bang sabihin ni Commissioner Tadeo ay taon-taon?

MR. TADEO. Bahagi ng apat na taon, halimbawa, bago niya makuha ang kanyang diploma, kinakailangan mayroon siyang anim na buwang pakiki-integrate sa mga tao.

MR. VILLACORTA. Sa loob ng apat o anim na taon na iyon?

MR. TADEO. Oo, sa loob noong apat na taon magkakaroon siya ng integration with the people.

MR. GASCON. Madam President, mayroon ditong isa na sa aming paniniwala ay maaaring maging bukas para sa legislation. Ngayon, kung nais magmungkahi ng amendment ni Commissioner Tadeo tungkol diyan sa six months direct integration ay maaari nating ibigay mamaya. Subalit kung titingnan natin ang Section 2 (a), line 18, "health and ecological consciousness and service to society," ito ay paglilingkod kaagad sa sambayanan at sa lipunan.

MR. TADEO. Ito ay hindi naman sa apat na sulok lang ng kuwarto.

MR. GASCON. Oo, malinaw po iyan dahil malinaw rin sa amin na kinakailangan may koordinasyon ng formal, nonformal at informal sa sistema ng edukasyon.

REV. RIGOS. Madam President, isang salita lang tungkol sa mungkahi ni Kapatid Tadeo. Maganda po iyan, pero baka puwede nang ilipat natin ang mga detalyeng iyan tungkol sa educational system sa Kongreso.

MR. TADEO. Hindi, para lamang mailagay sa Journal ang ibig nating sabihin dito sa Section 2 (a), kasi totoong napakahalaga ng integration with the people.

MR. GASCON. Oo, totoo po iyan. At ako mismo bilang isang mag-aaral ay natuto dahil diyan.

MR. TADEO. Kasi iyong pag-uugat natin na nanggaling mismo sa ibaba ay kinakailangang huwag mawala.

Ang susunod na katanungan ay tungkol dito sa Section 2 (b):

> The State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

Ang tanong ko: There seems to be a separation of the roles of public and private educational institutions, although they may have complementary roles. Could the sponsors give us an example of a complementary role between public and private institutions?

MR. GUINGONA. Sa pamamagitan po ng consortium kamukha ng mayroon ngayon sa UP, La Salle, Ateneo, at Philippine Normal College; pagtutulungan po. Ang ibig po naming sabihin sa complementary role ay dapat magtulungan para sa kabutihan ng mga estudyante, mga maestro at mga ibang miembro ng komunidad, mga kasapi ng unibersidad, kolehiyo o eskuwela.

MR. TADEO. Is it the spirit of this section to allow separation between public and private institutions on the consideration that the government does not have adequate resources to provide education to everybody?

MR. GUINGONA. Kung atin pong susuriing mabuti, sa panahong ito talaga pong walang adequate finances. Pero makikita po naman natin sa wordings ng provision na ito na ang iginigiit natin ay ang public and private educational institutions na hindi separate but integral part of the total Philippine educational system.

MR. GASCON. Nais ko lamang magdagdag. Una, ang seksyon na ito ay hindi ibig sabihin na pababayaan na lang ng pamahalaan ang kanyang katungkulan na magbigay ng edukasyon. Hindi iyan ang ibig sabihin niyan. Sa isang integrated system of education ay may public at private sectors. Pagdating sa private sector, wala namang karapatan ang pamahalaan na supilin ang mga pribadong paaralan at sabihin sa kanila, "hindi na kayo puwede dahil kami na ang bahala." Ang punto lamang ay dahil sa mayroon ngang mga sektor na pampribado at sektor na pampubliko. Sa sistemang pang-edukasyon ay dapat magtulungan upang mapaglingkuran ang kabataan, subalit malinaw po sa seksyong ito na hindi sinasabi na pababayaan na lang ng pamahalaan ang kanyang katungkulan na magbigay ng edukasyon.

MR. TADEO. My next question is: Does not the encouragement or recognition of dual system of education by private and public institutions foster social class division?

MR. GUINGONA. Hindi po naman dahil dapat nating malaman na ang ating society ay pluralistic. At kung mamarapatin po ninyo, babasahin ko ang sinabi ni John Stuart Mill in his famous essay on liberty in 1869:

> All that has been said of the importance of individuality of character and diversity of opinions and modes of conduct involves the importance of diversity of education. A general state education is a mere contrivance for molding people to be exactly like one another. And as the mold in which it casts them is one that pleases the predominant power in the government whether this be a monarch, a priesthood, an aristocracy or the majority of the existing generation in proportion as it is efficient and successful, it establishes a despotism over the mind leading by natural tendency to one over the body. An education established and controlled by the State should only exist, if it exists at all, as one among many competing experiments carried on for the purpose of example and stimulus to keep the others up to a certain standard of excellence.

Ang aking impresyon po rito – ang ibig sabihin ni Ginoong John Stuart Mill ay mahirap pong magkaroon ng monopoly ang State sa education sapagkat kapag nangyari ito, we will be dictated upon by the State and our education will become the type of education that we find in totalitarian states.

MR. GASCON. Pero nais ko lamang sanang magbigay ng aking pananaw. Sa kasalukuyan nga ay mayroong dualistic nature ang ating sistemang pang-edukasyon. Ano ang ibig sabihin ng dualistic nature natin? Iyong sistemang pang-edukasyon na ang ini-encourage ay iyong education for leadership at education for followership na kadalasan, kung susuriin natin, sa kasalukuyan, ang mga pumapasok sa mga pampribadong paaralan ay nagmumula sa mga mas nakakaangat sa buhay dahil kaya nilang bayaran iyong ganoong edukasyon. Sila iyong mga nagiging lider ng ating lipunan, habang iyong mga nakakapasok lamang sa pampubliko, they are relegated to followership, at nais nating tugunan iyan. Dapat mabigyan uli ng kahalagahan ng pamahalaan ang kanyang katungkulang magbigay ng edukasyon upang sa gayon ay mawala ang ganyang dualistic nature. Iyong mga mayayaman ay pumupunta sa mga magagaling na eskuwelahan habang iyong mahihirap na hindi nga nakapagtapos ng pampublikong edukasyon ay naiiwan na lang at nagiging followers na lang. Yaong mga hindi nga nakapagpapatuloy ay umaabot sa bottom rings of our socioeconomic and political life. So, ang vision ay ang magkaroon ng pantay-pantay o standardization of education for private and public schools, without necessarily saying that there shall be no more private schools. But we are saying that there will be a standardization of education given to all. Dito pumapasok yaong edukasyon bilang karapatan, that there will be equal access to all, so that one's inability to continue because of economic considerations should not be a deterrent in developing an individual's abilities to the fullest. Iyan ang hangarin, subalit malinaw po na hindi nagtatapos dito sa mga probisyong ito. Marami pang dapat gawain.

MR. TADEO. Salamat, Madam President. Mayroon pa kasing follow-up doon, ano?

Will not the constitutionalizing of the separation of private and public educational institutions, although complementary, enshrine the continued existence of private schools, effectively blocking attempts, if any, to authentically integrate the two systems?

MR. GUINGONA. Kaya nga po natin inilagay yaong right to education. We are being misinterpreted. Kahapon po merong tumuligsa sa amin at nagsabing, "Bakit masyado kayong nagbibigay ng emphasis sa state education?" Ibig naming magbigay ng stress sa public education so that, as Commissioner Gascon said, the level of education, which is admittedly low right now compared to private education, would be improved to the extent that we hope someday public education would even be of higher quality than private education. And like in many countries, even the rich people would prefer to send their children to public educational institutions than private educational institutions. Kaya namin inilagay ang right to education ay para malaman ng gobyerno na katungkulan ng estadong bigyan ng pansin ang educational institution ng gobyerno.

MR. GASCON. I believe the Commissioner is actually referring to the debate yesterday. He is saying that if we enshrine the terms "public and private systems" as complementary, we may be enclosing the situation where because of the development of public education, there would be no need for private schools. But from the realistic point of view, there will always be private schools because there are many private institutions and private groups who have the initiative in forming educational institutions. What is important to us is that the responsibility of the State to provide for education is not forgotten. So, doon pumapasok ang sinabi ni Commissioner Guingona na it may come to a point where there may really be an integration of both systems in whatever form maybe through subsidy, coordination, et cetera so long as it will serve the interest of all, not just the elite nor the rich alone. That is the primary consideration. The statement that education is a right will be put into practice by providing access to it. What is important to us is not so much the delineation between public and private education but an assurance that the poor shall be given access and opportunity to continue their education.

MR. TADEO. Will it not be better just to drop the issue of recognition of a dual system of education and leave it open for future debates?

MR. GASCON. So, the proposal is: To avoid any conflict, it would be better to drop any reference to private or public education. We will consider any amendment to that effect during the period of amendments. I think the Commissioner's proposal is that if we just keep quiet on that, there may be a possibility in the future that there will be a need for just one sector.

Thank you.

MR. TADEO. Ang susunod na katanungan ay nauukol dito sa Section 2 (g) – the study of the Constitution and human rights. Bakit hindi natin ilagay ang social justice?

Babasahin ko sa inyo ang isang verse sa Bible kung bakit dapat ang social justice. Ito ay mula kay Luke, Chapter XII, verse 56:

> You hypocrites! You know how to interpret the appearance of earth and sky; but why do you not know how to interpret the present time?

Kailangan nating ilagay doon ang social justice sa halip na human rights.

MR. GASCON. Maganda po iyong mungkahi ni Commissioner Tadeo at may mungkahi kahapon si Commissioner Tingson na dagdagan ang curriculum ng pagtuturo ng life and works of Jose Rizal. Ang punto lang po namin ay kung bubuksan natin sa mga iba pang mga provisions maliban sa human rights, it could open the floodgates to the inclusion of other subjects.

MR. TADEO. Pero ang social justice ay pagsusuri sa lipunan. Mahalagang maunawaan ng isang bata ang lipunan niyang ginagalawan.

MR. GASCON. Actually, ang unang mungkahi ay dapat apat ang idagdag sa curriculum, hindi lang ang Constitution at human rights. Dalawang mungkahi ang lumabas sa committee: agrarian reform and labor education.

MR. TADEO. Kasama sa social justice kasi iyon.

MR. GASCON. Hindi tinanggap ng Komite ang mungkahing ito because it will open the floodgates for the inclusion of other subjects. Subalit kung nais pong palitan ang human rights to social justice, puwede po mamaya.

MR. TADEO. Dapat social justice ang gagamitin dito dahil sakop na ito ang lahat – human rights, and labor. Dapat bigyan ng diin ang social justice.

MR. GASCON. Maaari po nating pag-usapan iyan sa period of amendments.

MR. GUINGONA. Madam President, may I add that because of the inclusion of the Article on Social Justice in the Constitution, the subject of social justice can also be studied.

MR. TADEO. Ang susunod na katanungan ay tungkol sa Section 3 – "All institutions of higher learning." Bakit hindi natin ilagay rito iyong secondary? Academic freedom should be exercised not only by institutions of higher learning but also by everyone who teaches including those teaching in the elementary and secondary levels of the educational system. Bakit higher learning lamang? These people need as much academic freedom to research, discover, publish and share their knowledge in relation to what they conceive to be the truth as anyone does in the higher institution of learning. Bakit hindi isama ang elementary and secondary levels?

MR. VILLACORTA. Madam President, iyong konsepto na academic freedom, ayon sa tradisyon at jurisprudence, ay napapaloob lamang sa mga pamantasan sapagkat ang pamantasan ay hindi lamang isang paaralan kung saan nagtuturo ang mga guro, kundi isa ring institusyon ng pananaliksik at iyon nga ang sinasabi ninyo; iyong pananaliksik, scholarship at iba pa ay kailangang garantiyahan ng academic freedom. Ngunit ang elementary at high school ay primarily for teaching, at sapagkat ang mga nag-aaral sa elementary at high school ay mura pa ang kaisipan, lubhang mga bata pa ang mga ito at hindi pa kayang mamili kung alin ang tama at mali. Kailangan siguro ay medyo alalayan pa at pangalagaan ang pagbubuo ng kanilang kaisipan. Siguro iyon ang dahilan kung bakit ang academic freedom ay hindi ipinapataw sa high school.

MR. TADEO. Kasi iyong anak ko maliit pa lamang alam na niya ang kasamaan ni Marcos.

MR. GASCON. Ang punto kasi ni Commissioner Villacorta ay, ang konsepto ng higher academic freedom, by common understanding not only in the Philippines but in other parts of the world, has been limited to tertiary education and to institutions of higher learning. Also, if we provide academic freedom to the other levels, primary and secondary, it might cause some problems. But I think the general intent is to give the assurance that primary and secondary schools will not be manipulated by, let us say, the government. Is that the direction?

MR. TADEO. Hindi. Ang ibig kong sabihin ay dapat magkaroon ng academic freedom ang secondary level.

Tungkol naman dito sa Section 5 (b) – "Non-stock, non-profit educational institutions shall be exempt from taxes and duties – this provision shall benefit only the rich exclusive schools with huge incomes and equally huge properties. Tax exemptions should be limited to economically depressed schools, particularly the mission schools in the small towns and rural areas. In the absence of an accurate date to confirm which schools are rich and, therefore, do not deserve exemption, and

which schools are poor and should be exempted and financially supported by the government, this provision is better left to the MECS on a case-to-case basis.

Proprietary schools should definitely not be exempted from taxes nor be financially supported by the taxpayers' money as these might only go to contribute to stockholder's dividends and other forms of private incomes and profits.

We take a very strong position against proprietary schools being financially supported or subsidized by the State. The current state of some stock schools like the UE illustrates what we are against – the school management renting out facilities or its building to commercial houses, converting these to restaurants, beauty parlors, cinemas, et cetera, not to improve or protect the integrity of education but to primarily protect and promote the profitability of the stockholders' investments.

Cooperatives and foundation schools should be easier to support from the government side than stock corporation schools founded on the philosophy of return of investment and run as profit enterprises. The government should continue its policy – see Education Act of 1982 – of encouraging the conversion of stock schools into foundation and nonstock corporations or cooperatives or some new forms of nonprofit educational institutions.

MR. GUINGONA. Madam President, with regard to the second point about proprietary schools, we are very much in favor with the establishment and growth of educational foundations and cooperatively owned educational institutions, and that is why precisely we have included this as a provision in our draft proposal.

But when we talk of educational foundations, I think we should bear in mind the fact that educational foundations cannot be established except through donations or huge sums of money. In other words, under the present situation, a person will have to donate millions and millions of pesos to be able to purchase the land, construct the building, purchase facilities and provide for operational expenses.

All of these will be given free by individuals. This is ideal but, I think, at the moment, it is utopian. No matter how important it is to us and how deserving donations are, I do not think there are many Filipinos who would be willing to donate millions and millions to establish educational foundations. Even those who already own existing schools, if one requires them to convert, one is in fact requiring them to donate. As a matter of fact, our experience is, even if a foundation is already established, the donations do not come. The ones who are supporting the foundations when they are in distress are the same people who have created or established them. So, I believe that although educational foundations should be established and should be allowed to grow, we cannot expect them to fill in the gap and respond to the needs of our studentry because of population growth.

This matter of cooperatively owned schools, I think, is very good. But then again, the point is finances. There was an attempt to convert Centro Escolar University (CEU) into a cooperatively owned educational institution. But then, the faculty members and the other members of the academe could not raise the money. That is why, maybe, it is here where the government can come in. For every P10,000 or P5,000 contribution, the government should allow the contributor, the prospective member, a loan or grant five times his contribution so that enough money would be generated to be able to buy a school, because schools cost a lot. And then, it is again idle to hope that the members of the academe could pull their resources together considering the low salaries of teachers. So, these are the items that we have to consider within the context of the actual demand for admission of students.

When we talk of proprietary schools, I think there was a wrong image created because of situations that arose during the late 1940s and the early 1950s wherein there was a boom and there were no restrictions on fees to the extent that schools were making a lot of money. This situation has already been kept in the consciousness of the people so that even if we consider the situation today, people still talk of profit schools. I go along with the idea that schools should not make inordinate profits, but since the promulgation of P.D. No. 451, which had set a ceiling of 12 percent, there has already been a restriction. As a matter of fact, the initial reaction of the educators and administrators at that time was to challenge because they say that this is the only private endeavor, or at least one of a handful, where there is a ceiling to the so-called return on investments. But my impression is that they have already learned to live with this, principally because they have not been able to reach the 12 percent anyway. Most if not all of them, have not reached the 12 percent ceiling that is allowed by law. FAPE (Fund for Assistance to Private Education) has conducted a study along this line and, according to them, for the period 1972-1977, the average return on investments of proprietary schools is 4.33 percent compared to agriculture which was 11.76 percent; commerce, 14.13 percent; manufacturing, 10.75 percent, mining, 21.34 percent; service 10.10 percent; and utilities, 11.39 percent. So, I am in favor of putting a ceiling even lower than 12 percent. And if there is going to be an incentive or assistance, even lower than that I think we should not be so concerned. We should not only concern ourselves with the so-called return on investments. What we should also be concerned about is the residual percentage that will go to the benefit of the students directly, either by a decrease in tuition fees, nonincrease in tuition fees or better facilities and indirectly higher salaries for faculty members and staff. Higher salaries for faculty members are important because they will not only benefit the faculty members but also the students inasmuch as the schools will be able to attract better faculty members; with regard to those who are already in the school, this would boost their morale. As a matter of fact, the average income of faculty members is only P1,200.

May I just point out something that I think is very significant. We should consider the residual percentage of a school which is an educational foundation and which might set aside 30 percent of its surplus for the salaries of ranking officials beginning from the rank of deans to comptroller, treasurer, president, vice-president, board of trustees as well as for honoraria, bonuses, allowances and consultancy fees. What would be left for the benefit of the students would be only 70 percent. That is what we should be concerned about.

In a proprietary school, if it has an ROI of 10 percent, it could allot 15 percent for the salaries of administrative officials. This is a conservative estimate, because in a proprietary school, the shareholders or owners are on top of the situation as far as expenditures are concerned and, generally, the owners who serve as officers do not receive salaries. There is the addition of 10 percent and 15 percent or a total of 25 percent. The residual benefit to the students would be even more. It would be 75 percent as against 70 percent. So, we should not only concern ourselves with the ROI but with the percentage that will go to the benefit of the students.

MR. RAMA. Madam President, may I ask that Commissioner Suarez be recognized?

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

I know the sponsors have been besieged with a number of questions, but there is really a need to clarify many of the provisions being proposed on education.

Take the case of Section 1 (a). We are thinking in terms of declaring education as a right of every citizen. Correspondingly, we are also stating that it is the duty of the State to provide education to all citizens. So, there is a right on the part of the citizen and there is a duty on the part of the State, and this applies to all citizens. When one speaks of "all citizens," it is regardless of age. Is my understanding correct, Madam President?

MR. VILLACORTA. Yes, that is correct.

MR. SUAREZ. And we do not make any distinction whether they are the young ones or the adult citizens who are also equally entitled to education.

MR. VILLACORTA. The Commissioner is correct in his interpretation.

MR. SUAREZ. And we also make no distinction as regards the physical condition of the citizen, that is to say it could extend to the handicapped, the deaf, the mute and the blind. Under such a situation as envisioned, if one were a blind man, he is entitled to demand from the State that he be given the education to which a blind man is entitled.

MR. VILLACORTA. That is right, Madam President.

MR. SUAREZ. And the duty of the State is to provide that kind of education.

MR. VILLACORTA. Yes, Madam President, although, of course, the constraint on the State, particularly on the economic aspect, would have to be recognized. In other words, the State, especially in its present economic condition, cannot possibly put up schools for the blind all over the Philippines.

MR. SUAREZ. Then what happens to the right of these poor citizens, handicapped as they are, to demand compliance from the State of its duty to provide them the adequate education that they deserve?

MR. VILLACORTA. Like any demand from the citizenry on the State, certain realities are considered as far as implementation is concerned. In other words, even if there is the guarantee in the previous Constitutions that free elementary public education be provided by the State, we know that there are a lot of students or school-age children who are unable to go to elementary schools simply because there are no school buildings and teachers available in certain areas. So, I am just calling our attention to certain realities that would impinge on the implementation to the letter of the law, but at the same time, that right of the citizens to education, as well as the duty of the State to provide it, is enshrined in the Constitution.

MR. SUAREZ. In other words, the exercise of this right and this duty must be reasonable. What is well within the means of the State can be provided for these kind of citizens.

MR. VILLACORTA. Yes, Madam President, that goes without saying.

MR. SUAREZ. Thank you.

That is to say that even with respect to the compulsory application of these principles, this must be also within reasonable limits.

MR. VILLACORTA. Reasonable, that is right. I think if I am not mistaken, it was Commissioner Rodrigo who pointed out that there are occasions when parents cannot be compelled to send their children to school because there are other expenses involved, for example, transportation and clothing expenses which the family cannot afford because of extreme poverty. So, of course, leniency must be exercised here.

MR. SUAREZ. So, what happens to truants or these out-of-school boys who do not suffer those handicaps, can we compel them to go to school?

MR. VILLACORTA. That is right.

MR. SUAREZ. And this can be done through the exercise of the police powers of the State, short of arresting them probably, but I suppose we have the means to enforce this particular provision regarding compulsory education, at least from the elementary level.

MR. VILLACORTA. That is right.

MR. SUAREZ. When we say free public education at the elementary and the secondary levels and a socialized fee structure in the tertiary level of state colleges and universities, I suppose the committee has in mind something that is now being practiced in the University of the Philippines – applying the socialized fee structure for those in the tertiary level.

Is my understanding correct, Madam President?

MR. GASCON. I would like to clarify that the socialized tuition fee structure is not yet being implemented in the University of the Philippines. It is seriously being considered, not only in the UP, but even in other universities. Basically, the intent of the socialized structure for tertiary education in state colleges and universities is to make sure that access to students, even in the tertiary level, is provided, especially to those who come from the poor. We do not need to explain any further that the rich can continue their education even up to the tertiary level; the problem is with the poor. How can they continue tertiary education? Even those in state colleges and universities today find it very difficult to continue their education because of the cost of education. When we speak of subsidy, the attempt is in state colleges and universities because state colleges and universities are given direct and full subsidy from the State. The State will consider the intent of providing the poor with access to state colleges and universities, so they would, in the long run, be receiving more subsidy than those who are rich. That does not necessarily mean though that the rich will not receive subsidy in state colleges but rather, the poor shall receive more subsidies because of their economic situation, which is a basic recognition of socioeconomic inequalities in Philippine society. It is an attempt to democratize our tertiary education system which is dominated by those who come from the upper middle class and upper classes. It is democratizing in the sense that those who come from the lower classes will still continue with their education. That is the basic principle.

MR. SUAREZ. I thank the Gentleman for his concern for the poor students. So, when we say "socialized fee," that is practically envisioned to favor the poor classes of students. And when I say poor, not poor mentally but poor in terms of economic condition.

MR. GASCON. In socioeconomic terms, that is right.

MR. SUAREZ. Madam President, my next question is under Section 1 (c) which speaks of a system of scholarship grants and other incentives. Are we talking in terms of providing scholarship grants and other incentives to those who may be belonging to the marginalized sector of our society, or are we talking in terms of scholastic records?

MR. GASCON. We refer to both actually. When we speak of scholarships and other incentives, the bias pertains to quality education because it speaks of equal access and opportunity. The bias speaks of scholarships and grants for poor but deserving students.

MR. SUAREZ. Because what we are talking about here is quality education, not simple elementary or high school education.

MR. GASCON. That is right.

MR. SUAREZ. So the same rule applies, that is to say, those who are less provided in life should have more in education, even in the matter of quality education. Is my understanding correct, Madam President?

MR. GASCON. Madam President, quality education is a right of every citizen. The issue is access to quality education. So, as far as providing quality education is concerned, there should be no discrimination. It should be provided to all, whether rich or poor. But in practical terms, in real life, those who can afford quality education primarily come from the rich.

MR. SUAREZ. May I give a concrete example for purposes of record, Madam President. Let us take the case of scholar "A" and scholar "B," both of whom are qualified from the scholastic standpoint. But scholar "A" happens to belong to the marginalized sector of our society and scholar "B" happens to be among the wealthiest families in our country. Given that situation, how would we resolve the problem? Would we favor that the State extend quality education to those who belong to the marginalized sector, all things being considered equal?

MR. GASCON. No. I think the issue is not extending quality education to one or the other. The issue is to assure the poor scholar the opportunity to avail of scholarships and incentives without prejudice to the rich scholar's availing of other grants and scholarships which may be afforded to him based on his merits.

MR. SUAREZ. Thank you.

MR. GUINGONA. Madam President, may I say that when we speak of scholarships, this will also refer to scholarships in the educational institutions because the State may require educational institutions to provide scholarships. Right now, they are requiring schools to provide one scholarship for so many students and that is being followed now. As correctly stated by Commissioner Gascon, our concern here is scholarship in general, but directed more to those in the marginalized group. We are not talking of specific scholarships, like scholarship due to academic excellence or due to extracurricular excellence, like in basketball, et cetera.

MS. ROSARIO BRAID. Madam President, may I also mention that this does not only refer to formal schooling. The "incentives" and "quality education" mentioned here could refer to other forms, such as the innovations going on now where they integrate formal with nonformal education. They call this the dual system whereby vocational schools teach students skills needed in the employment areas. And then the company trains their students, allowing the integration of formal and nonformal education. The successful models have been adopted from Germany and other European countries, and they have been applied here. Another model is that of Meralco and the National Manpower Youth Council coordinating in terms of providing complementary education to train those who are more inclined to vocational and skills-oriented professions. So, I think this shows that we are not encouraging attention only to formal education because we recognize that we have many dropouts who have no skills. As a matter of fact, we would like to return to the 2-2 system or the branching system in secondary education where at the second year in high school, those who are inclined to enter the university would have a different curriculum, and those who are inclined to enter vocational schools would have a different curriculum. We should work towards this kind of alternative educational system so that we will not force everybody to go to college.

So, this is what we mean by quality education. It is not just limited to pure academics because we have suffered too much from overintellectualism and overacademism in our curriculum. So, I would hope that our concern here should not just be focused on academic intellectual education because we want to deacademize, deintellectualize, to use some terms. What we are saying is that we must move on to a more radical educational system that is responsive to our needs. This is without saying that it should also be skills-oriented because when we talk about comprehensive education we mean skills education with a comprehensive education in the other areas of concern — civics and humanities and the social-oriented areas.

Thank you.

MR. SUAREZ. Thank you for the explanation, Commissioner Rosario Braid.

The Commissioner mentioned something which I also wanted to discuss, and that is one of her favorite subjects — this matter of nonformal education which appears under Section 1 (d). Do I take it, Commissioner, that when we speak of nonformal and informal, and indigenous learning systems, we also have in mind education within the home, education coming from the parents which I feel rather strongly is basic in the education of our youth?

MS. ROSARIO BRAID. Yes. As a matter of fact, that is envisioned here, but we could not spell out because we would like to leave it to the legislature, is that we consider education in the home as important as formal schooling. We consider education in the place of work, vocational education, education through mass media and other areas, equally important. But we feel though that the linkage mechanisms are lacking. An example of one linkage, or if we want to link the family with the school, is to strengthen parent-teacher associations or similar associations. If we want to link employment to schooling, we should have courses where employees can really participate in curriculum development and say what they would like. We would like to link members of the Church, members of the media who are as important learning delivery system in the same policy council as educators.

We refer to nonformal education in the traditional sense by way of training farmers or members of cooperatives on nutrition or on other out-of-school courses. But more than that, we also would like that this be linked to the family by adopting the Sri Lanka model which looks at the family, the temple and the school as one whole system. So that, therefore, the values that are learned in the family are reinforced in the school, in the mass media, and in the workplace. But we lack the linkage mechanisms that would link and provide this comprehensive education; so we would like that this be addressed to implementing mechanisms that would strengthen or create those linkages.

MR. SUAREZ. So, in short, nonformal education includes education within the family by the parents.

MS. ROSARIO BRAID. Yes.

MR. SUAREZ. Thank you.

Now, may I go to the second paragraph of Section 1 (d) where the phrase "disabled and out-of-school youth" is employed. Under the 1973 Constitution, Article XV, Section 8 (6), the term used is "poor and deserving students." Do we equate out-of-school youth with poor and deserving students?

MS. ROSARIO BRAID. Over and beyond, we have in other provisions addressed ourselves to those deserving poor. But here, we want to spell this out and focus attention on the disabled because they have not been attended to, they have not been given the special educational and training programs that they need, which should really be a specialized education different from the traditional curriculum.

MR. GASCON. That is right. I would like to add, Madam President, that this speaks of civics, vocational efficiency and other skills training to adult citizens, disabled and out-of-school youth, because at present, there are many adult citizens who have not been able to continue education. Most of them reside in rural areas or in urban poor communities and who have been able to finish only elementary or, at most, secondary education. So, what we would like to do is to provide them with continuing education. The same would go for the disabled to encourage them to maximize their abilities. This is also in relation to the provision on the disabled which we just passed on Second Reading, and which is intended to integrate the disabled into the mainstream of society to make them productive members of the same.

The out-of-school youth here pertains not only to poor but deserving students, but really to those hundreds of thousands of community youth in the rural and urban poor areas who, because of their inadequacies to continue secondary education or tertiary education, are left in the communities with very little things to do. They are either underemployed or unemployed, and in order to maximize their time, we intend to provide them with different skills and training so that they can maximize their potentials as community youths, and become productive forces in Philippine society. This provision really seeks to reach out to those who are not in school, but yet deserve as much attention in as far as continuing education is concerned.

MR. SUAREZ. What bothers this Member with the use of the term "out-of-school youth" is, it could extend even to those belonging to wealthy families who are out of school but have strayed away from getting an education because they get engaged in street brawls, they get into dope addiction, etc. These youths are out of school but, nonetheless, they have the means to be able to get themselves educated properly. Are they included within the term?

MR. GASCON. Madam President, these youths referred to are a minority in Philippine society. Second, assuming that they come from the more privileged sectors in Philippine society, if they are out of school, then their access to education is not a problem once they have clarified certain matters if these are the problems which the Gentleman spoke of. If they are out of school because of drug problem, for example, then drug education schemes can be given to them. Whether or not they come from the upper classes is beside the point, the issue is they have to be given attention with regard to these specific problems. But this out-of-school youth mentioned here really pertains to those who cannot continue with their formal education.

MR. SUAREZ. Madam President, may I go to Section 2 (c), which appears on page 3, referring to private educational institutions. It is a very good sign the Constitution provides that private educational institutions shall be owned and administered solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens. Is this provision going to be prospective in character and not retroactive in application, Madam President?

MR. VILLACORTA. If the Gentleman, by "retroactive," is referring to schools that are owned by foreign nationals and would they be penalized due to this constitutional mandate, the mandate will not be retroactive. However, this would have to be immediately implemented if this provision is adopted and the Constitution is ratified.

MR. SUAREZ. So, we are clear on the interpretation that those existing private educational institutions, although they are not wholly owned by Filipino citizens, can continue to operate.

MR. VILLACORTA. Our interpretation is that as soon as this Constitution is ratified they would have to Filipinize themselves.

MR. SUAREZ. And this should be within a limited period of time, I assume.

MR. VILLACORTA. Yes.

MR. SUAREZ. Is the Filipinization process of those already existing private educational institutions not wholly owned by Filipino citizens also mandated within a certain period?

MR. VILLACORTA. Surely, Madam President, they will be given time to undertake the Filipinization process.

MR. SUAREZ. Thank you.

There is the bothersome provision in Section 2 (d) referring to the right, or maybe the negative exercise of the right of the State not to interfere with the right of every citizen to select a profession or courses of study, subject to admission and selection requirements. Is there really need to include this in the Constitution, Madam President?

MR. VILLACORTA. Commissioner Gascon, the main proponent of this, would like to explain.

MR. SUAREZ. Will the Gentleman favor us with the reasons for introducing this provision?

MR. GASCON. I personally believe that this should be included in this article to avoid situations where the State may duly impose itself on the academic community in as far as demanding students to enter into certain courses or degrees because of particular development plans. This would be curtailing the students' freedom of choice.

MR. SUAREZ. If I might cite an example, does the Gentleman have in mind what happened during the Marcos administration when military service training of students was required? Because when we say "to select" and then this interference problem is raised, are these not two conflicting ideas?

MR. GASCON. There are certain requirements by a particular academic institution for a person to get a degree. If a person seeks to finish a course and complete a degree in this area, he must complete certain requirements to that. Now, the Commissioner was referring to military training which was a direct result of Commonwealth Act No. 1, National Defense Act, and which was an additional course given to students to complete a degree over and above the courses required. It is the personal opinion of this Member that such provision in our laws at present should be reviewed. In fact there is a move now by various school administrators, students and parents questioning the present National Defense Act and requesting for its revision to the effect of making military training optional. Very clear in the minds of the students is the National Service Law which was an attempt by the past regime to expand this concept of military training. In effect, there was a lot of protest from students, teachers, administrators and parents against this undue intrusion by the State. So, it is the intent of this committee to minimize intrusion by the State into the affairs of the academic institutions and the students themselves.

MR. GUINGONA. Madam President, may I just add. The National Service Law is not a course and is not even part of the curriculum. It is a noncredit activity which is required pursuant to the provision in the Declaration of Principles that all citizens may be required by law to render personal military or civil service. This is in anticipation of the military service that they may be required to do in case of war or national emergency. The admission and retention requirements are necessary because there will be physical, academic and other requirements that have to be addressed to or considered. For example, insofar as physical facilities are concerned, if a school can no longer admit because of lack of facilities, obviously, this will affect the right of a student to study in that particular school.

MR. SUAREZ. Thank you.

MS. ROSARIO BRAID. Madam President, may I add to that. This does not preclude the need to strengthen guidance counselling units in every school that would guide the student not only in terms of his individual aptitude but would, in fact, provide directions in terms of criteria of absorbability into the economic mainstream and other needs of national development. Earlier, we noted here that the education system should be responsive to both the needs of the individual, as well as society, so that we are aware that national development needs are as important as individual preferences based on aptitude.

MR. SUAREZ. Thank you.

But what bothers me, Madam President, is the practical application of this provision. For example, under the proposal, the study of the Constitution is mandated. Suppose here is a student who says, "Oh, no, I am sorry I will not take such course of study." And this situation is envisioned within this particular paragraph, Madam President. In other words, it is up to the student now to select his profession or his course of study and the State is mandated or required not to interfere with that. So, does the committee think it is still necessary to provide for this kind of a provision in our Constitution?

MR. VILLACORTA. Madam President, we understand the source of the apprehension of Commissioner Suarez, and probably he could propose a rewording of this provision because what we really have in mind are degree courses that would determine one's professional occupation, not particular subjects. But we can improve on this, Madam President.

MR. GUINGONA. Besides, as I mentioned yesterday, this right as any other right is not an absolute right.

MR. SUAREZ. Thank you.

Maybe at the proper time we can make the necessary suggestions.

The last point we would like to take up is the matter of Section 5 (b) appearing on page 4 of the draft resolution. We would like to seek clarification regarding this second sentence which reads:

> Proprietary educational institutions shall likewise be entitled to these exemptions provided they limit stockholders' dividends as may be provided by law.

I assume that Commissioner Villacorta has in mind educational institutions like Far Eastern University or Centro Escolar University or those in the same category. Is my understanding correct, Madam President?

MR. VILLACORTA. Yes. In the parlance of the education sector and I assume this is also adopted by the Securities and Exchange Commission, proprietary educational institutions refer to those schools that are allowed to make profits for as long as these profits are not too much and which recognize the fact that education is primarily a public service. So, Far Eastern University and the other schools mentioned would fall under that category.

MR. SUAREZ. And irrespective of the fact that they make profits or not, would they be exempted from the payment of taxes and duties?

MR. VILLACORTA. For as long as they limit their dividends to the amount provided by law.

MR. SUAREZ. Let us say the limit is 12 percent on capital investment per year and they succeed in making that kind of a profit. Nevertheless, they would still be exempted from the payment of taxes and duties, just like nonstock, nonprofit educational institutions provided in the first sentence. Is that correct?

MR. VILLACORTA. That is correct, provided they fall within that limit provided by law.

I think Commissioner Guingona would like to add something.

MR. GUINGONA. Madam President, I was just telling the honorable chairman that the 12 percent that the Commissioner mentioned could be less, as may be provided by law.

MR. SUAREZ. Assuming that the limit imposed by law is only 6 percent and they do make a declaration of dividends equivalent to 6 percent, that means to say that they were operating on a profitable basis. In spite of that situation, the institution would still be exempted from the payment, not only of real estate taxes, as provided under the 1973 Constitution, but from all taxes and duties. Because that is the first sentence of the proposed provision, is this the correct conclusion, Madam President?

MR. GUINGONA. Yes, Madam President, because the sense of the committee is that this benefit will result in surplus which in turn will be used for the benefit of the students. As a matter of fact, the law may provide as to how the surplus will be distributed, as it has done under P.D. No. 451 – for example, 60 percent of the proceeds should go to increase of salaries of teachers.

So, we envision that whatever additional surplus there may be will be used primarily for the benefit of the students. As in all other provisions here, our concerns are the students, the teachers and if I may correct myself from what I said yesterday, also the nonacademic personnel.

MR. SUAREZ. What of the possibility of a particular private educational institution making enormous profits but limiting its declaration of dividends to the amount specified by law? Under that situation, they will, nevertheless, not be required to pay any taxes or duties. Did the committee consider that possibility?

MR. GUINGONA. Yes. As I said, the law may provide for distribution of profits so that if the law says only 6 percent or 10 percent or 8 percent goes to the ROI, the rest will go, as has been done, to capital outlay, to laboratory facilities, to faculty increases; and, therefore, the difference between the total surplus and the amount of ROI, as I mentioned in my reply to Commissioner Tadeo, would redound as residual percentage for the benefit of students – direct and indirect.

MR. SUAREZ. Theoretically, we concede the validity of the Gentleman's thinking, but the possibility may arise where all of these profits, realized as they are, would be distributed among the directors, for example, as per diems, allowances, compensation, fringe benefits, or instead of being used for capital requirements, they would be used to buy beautiful staff cars for the members of the board and for the management staff.

Does the Gentleman not think these are fears and apprehensions that have sound basis in reality?

MR. GUINGONA. Definitely, Madam President, that is why in reply to the interpellation of Commissioner Tadeo, we said we should concern ourselves with this element in the consideration of the total surplus, and there should be a limitation to the bonuses and allowances that were mentioned.

MS. ROSARIO BRAID. But, Madam President, may I interject.

The reality, however, is that many of these proprietary institutions are not making a lot of profit. As a matter of fact, many of them may have to convert themselves in the future into foundations or cooperatives. For example, Centro Escolar University is now a cooperative because it has been having a difficult time running itself as a proprietary institution.

MR. SUAREZ. So, Madam President, may we respectfully request the members of the committee to review this particular provision.

MR. VILLACORTA. Yes, and if our colleagues have any proposed amendments, we would be happy to receive them.

MR. SUAREZ. We will do that at the proper time and thank you for the enlightening information.

ADJOURNMENT OF SESSION

MR. RAMA. Madam President, I move that we adjourn the session until Monday at nine-thirty in the morning.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until Monday at nine-thirty in the morning when we will continue with the interpellation and debate on the other provisions of the article.

It was 12:11 p.m.

R.C.C. NO. 71

Monday, September 1, 1986

OPENING OF SESSION

At 9:56 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Blas F. Ople.

Everybody remained standing for the Prayer.

PRAYER

MR. OPLE. God Almighty, it was by Your will that 48 men and women from diverse origins and backgrounds were brought together here to frame a Constitution for the Filipino people.

Outside these halls, we have often been criticized for having been appointed, not elected, as though, lacking the grace of a popular mandate, we are not worthy of this exalted task. And yet this is only one way of saying that not being elected, we cannot be independent. We believe this Commission, with Your Divine Grace, has boldy met the test of independence, the sole guide for our actions being our respective consciences.

You did not intend or program us to think alike, for that would be an abomination of intellectual freedom and of the plurality of ideas essential in a democracy. God, forbid that there should ever come the day when there will be a compulsory leveling of thought to one uniform mass to suit a one-party State in our beloved country.

Therefore, we, as individual Commissioners, have exercised on this floor and in the committees, our independence of thought and action. In the process, there are clashes of ideas that often test the patience of friends and strain the bonds of courtesy and civility, but they also prove the vitality of freedom on this floor. Perhaps no better proof than this exists to show that we are being faithful to our individual mandates in drafting the highest covenant for our people.

And yet it is possible, Lord, that in thus engaging ourselves in a clash of ideas and in wearing the warrior's plumes we fall into the occasional error of vanity and pride, forgetting that it is the meek who shall inherit the earth. Teach us then, O Lord, to be brave and humble in our hearts; teach us to be tolerant of adversaries; teach us the grace of conquering through love and humility.

And, finally, guide us, Lord, as we brace for the final chapter in the brief but epic labors of drafting a Constitution for our people and their posterity. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Absent
Aquino	Present*
Azcuna	Present
Bacani	Present
Bengzon	Present*
Bennagen	Present*
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present
Suarez	Present*
Sumulong	Present
Tadeo	Present*
Tan	Present
Tingson	Present*
Treñas	Absent
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 34 Members responded to the call.

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*Appeared after the roll call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we approve the Journal of the previous session.

MR. GUINGONA. Madam President, before we approve the Journal of the previous session, may I be allowed to insert some corrections on page 25?

THE PRESIDENT. The Commissioner may proceed.

MR. GUINGONA. On page 25, line 3, change the first word "promptly" to "MIGHT" and between the figure "30%" and the word "with," insert the words "FOR SALARIES, BONUSES, ALLOWANCES, ETC., OF TRUSTEES AND RANKING ADMINISTRATION OFFICIALS."

Finally, Madam President, on line 5, between the comma (,) after the figure "10%" and the word "allot," insert the word "MIGHT."

Thank you, Madam President.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the proposed corrections are directed to be made.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. There is a precedent-setting character to the intervention by Commissioner Guingona in terms of correcting the Journal on the floor. There was a prior agreement that to save time those Commissioners who wanted to make their respective corrections based on what was actually said could do this by making representations to the President and to the Secretariat.

THE PRESIDENT. We have followed that; only I was surprised by Commissioner Guingona when he made the corrections on two occasions on the floor.

MR. OPLE. Thank you for that clarification, Madam President.

APPROVAL OF JOURNAL

THE PRESIDENT. Is there any objection that we approve the Journal of the previous session? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from the faculty and staff of the Faith Bible Institute, P.O. Box 88, Laoag City, Ilocos Norte, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 675 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Fred M. Magbanua, Jr. and three other officers of the Christian Leaders Alliance of the Philippines, P.O. Box 1, Valenzuela, Metro Manila, endorsing the position paper on religious instructions in public schools presented by Mr. Isabelo F. Magalit of the Konsiyensiya ng Febrero Siete (KONFES), recommending that the provision of the 1973 Constitution be retained and incorporated in the new Constitution.

(Communication No. 676 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Ben T. Porcadilla of the General Baptist Church of the Philippines, Inc., Bolcan St., Agdao, Davao City, urging the Constitutional Commission to incorporate in the new Constitution that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 677 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Mr. Pedro Zorilla, transmitting Resolution No. 130 of the Sangguniang Panlungsod of Dipolog City, proposing the creation of a new region to be composed of the Provinces of Zamboanga del Norte, Misamis Occidental, Zamboanga del Sur, the Cities of Dipolog, Dapitan, Oroquieta, Ozamiz, Tangub and Pagadian.

(Communication No. 678 – Constitutional Commission of 1986)

To the Committee on the Legislative.

Communication from former MP Rogelio M. Sarmiento, Sarmiento Bldg., No. 2, Pasong Tamo Ext., Makati, Metro Manila, suggesting that the Constitutional Commission of 1986 should provide that in the event the new Constitution is repudiated during the incoming referendum, President Corazon C. Aquino should choose between the 1935 or the 1973 Constitution as the functioning constitution which we shall follow and uphold.

(Communication No. 679 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from former MP Rogelio M. Sarmiento, Sarmiento Bldg., No. 2, Pasong Tamo Ext., Makati, Metro Manila, urging the Constitutional Commission of 1986 not to incorporate in the Constitution the issue of the American military bases in the Philippines and the policy of declaring the country as nuclear-free.

(Communication No. 680 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF COMMITTEE REPORT NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. For consideration this morning, we have the Article on Education, Science, Technology, Arts and Culture. I move that we continue consideration of this article.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

We will request the honorable chairman and members of the Committee on Human Resources to please occupy the front table.

Mr. Floor Leader, are we still guided by the agreement that the interpellations will be centered on the different sections?

MR. RAMA. Madam President, I ask that Commissioner Azcuna be recognized.

THE PRESIDENT. May we request the members – Commissioners Uka, Guingona, Quesada, Tan, Bennagen, Gascon, Rigos and Rosario Braid – to sit in front.

Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Madam President.

I just would like to ask a few clarificatory questions of the committee. I notice that in the lead section of the Article on Education, it stated that the State shall give priority to education, science and technology, arts and culture for the purpose of fostering national pride and identity, enhancing the quality of life of every Filipino, and expanding the frontiers of justice and freedom.

I would like to know what the goals of our educational system are. Is this a statement of the goals of our educational system?

MR. VILLACORTA. Would the Commissioner like me to answer now or to finish his other questions?

MR. AZCUNA. If possible, I would like the committee to answer that now.

MR. VILLACORTA. The section that the Commissioner has just referred to is the omnibus section which presents the goals not only for education but for science, technology, arts and culture.

MR. AZCUNA. So, the goals of education, science, technology, arts and culture are to foster national pride and identity, enhance the quality of life of every Filipino and expand the frontiers of justice and freedom.

MR. VILLACORTA. We feel that these are encompassing goals, but if the Commissioner has proposals by way of adding other objectives, the committee will be open to his proposal.

MR. AZCUNA. I see.

My next question on this section is whether there is a priority or hierarchy with the areas of education, science and technology, arts and culture.

MR. VILLACORTA. The sequence does not reflect the priority which we feel should be given to these areas.

MR. AZCUNA. They are all equally important as far as the committee is concerned?

MR. VILLACORTA. Yes, they are all equally important.

MR. AZCUNA. With respect to Section 1 (a), regarding the duty of the State to provide education to all citizens and Section 1 (b) which refers to a system of free public education at the elementary and secondary levels and a socialized fee structure at the tertiary level, my question is whether or not the committee has considered the possibility of providing preschool education to our citizens.

I remember very distinctly at one of the public consultations we had in Legaspi, one participant brought out the possibility that instead of financing one year in college, let us say, free college education, perhaps the State will accomplish more if it could finance one year preschooling for our citizens because of the formative nature of preschooling and because of the fact that the advantage of those who are more able to spend for education over the less privileged, precisely, lies in the fact that they are able to send their children to preschool. Also, the capacity of a child to learn is formed precisely during this preschooling period. So, it seems to me that there may be a possibility of going into that area, and I do not know if the committee has looked into this.

MR. VILLACORTA. I think Commissioner Rosario Braid would like to say something.

MS. ROSARIO BRAID. The provision emphasizing comprehensive education which will integrate informal education which is really education in the home and nonformal, attends to the importance of preschool education. However, the Commissioner is quite right that in terms of formal preschool education, the committee report has not attended to that, and we quite agree that the most important years are the years of preschool education. So, I think the committee would be very willing to accept an amendment that would stress the importance of providing resources for the development, the establishment of a broadened preschool education.

MR. GUINGONA. Madam President, may I add something? As we said in our previous reply, the provision of the right to education and the corresponding duty of the State to provide the education expands the area of offerings; and, therefore, preschooling could be one of the areas, aside from tertiary and other areas, which the government could address itself to. But I see the rationale behind the question of Commissioner Azcuna because there have been findings that children of lower ages – five to six – are the ones who are most receptive to the learning process. But there is nothing in this provision that will prohibit, as the Ministry of Education, Culture and Sports has already announced, the lowering of the age. According to reports, beginning next year, students six years of age will be admitted to first grade, which is practically like preschooling already.

Thank you.

MR. VILLACORTA. So we shall consider the Commissioner's proposal.

MR. AZCUNA. Yes. May I proceed to Section 2 (a) regarding the aims of all educational institutions that they shall inculcate nationalism, love of fellowmen, respect for human rights, et cetera, and finally towards the end, it says: "impart liberal education." My first question is on the word "inculcate?" According to the definition of the term "indoctrination" by Mr. Carter V. Good in his Dictionary of Education, the term "indoctrination," in its broadest sense, is the attempt to inculcate beliefs, a possible concomitant of any learning situation. In the narrower term, it is the attempt to fix in the learning mind any doctrine – social, political, economic or religious – to the exclusion of all contrary doctrines, and in a manner preventing serious comparison and evaluation.

The word "inculcate" is used in this Section 2 (a) which reads: "shall inculcate nationalism, love of fellowmen and respect for human rights, teach the rights and duties of citizenship, et cetera." Would that mean indoctrination or not?

MR. VILLACORTA. No, because, as popularly understood, indoctrination is the systematic imposition of certain beliefs that are related to the priorities of a particular state. But in its loosest sense, and if we will consider inculcation as indoctrination, then any form of teaching, including teaching of religion, would be indoctrination. But in its strictest sense, what we are proposing here is not indoctrination. If the Commissioner is uncomfortable with the word "inculcate," we would welcome any suggestion as to the alternative term that we can use to make it less caring.

Commissioner Rigos would like to say something.

REV. RIGOS. Madam President, also it is worth noticing that the word "inculcate" here is used in relation only to nationalism, love of fellowmen and respect for human rights. The other phrases are governed by the verbs teach, instill, strengthen, et cetera.

MR. AZCUNA. As long as it is put on the record that this is within the purview of respecting sanctity of individuals and allowing possibility of contrary views in the teaching process, I have no objection. That is the essence of the query.

MR. VILLACORTA. Yes, I was just checking whether the word "inculcate" was used in the other constitutions. We will look into the proper wording.

MR. AZCUNA. Thank you.

Finally, I was reading sometime a comic strip known as Doonesbury and this was on education. A president of a university was being asked to sign a document which would reduce the budget of the school within their capacity to spend, and he was telling his assistant who was asking him to sign this document: "Mr. Simon, in my days, education was a journey, a companion that took you to paths of learning in the garden of knowledge whereby you are allowed to come in contact with the best minds of generations and history."

He said, "Those were the aims of education in my days."

And he asked: "Mr. Simon, what are we aiming for now?"

And Mr. Simon told him: "Literacy, sir, literacy."

The President sighed but signed the budget reduction.

This, to me, is very relevant to our work because it boils down now to: Can we afford it? I think we have already taken up the cost in figures for this really very critical task of educating our people earlier, and I hope that this is within our task. Of course, if we cannot reach for something beyond our grasp, we say: "What is heaven for?" But then, there is also the possibility that our people might be frustrated if we promise them something we cannot deliver, especially in the field of education which, I believe, is the great equalizer. It is the one key activity or endeavor in which the poor and the underprivileged in our country will be able to equalize the disparities of life and be able to come out equal with others.

Thank you.

MR. VILLACORTA. May I briefly reply to that.

It is true that we are raising hopes and expectations with this section that guarantees free public education up to the secondary level, in the same manner that hopes and expectations are raised when we talk about industrialization in the Article on National Economy and Patrimony and some other provisions in the Constitution in which we assume that we shall not stagnate at a certain point of development. If we assume that one day we shall be a more developed country or maybe the proper term is, we shall be less underdeveloped, then there probably is some basis for hoping that free public education up to the secondary level can be attained.

I would like to mention some poor countries such as Sri Lanka which guarantees free public education up to the tertiary level, but they know for a fact that that cannot be achieved in its perfect form. These poor countries try their best to attain that objective, and this augurs well for the educational sector because whenever these governments come up with their budgets, they make sure that education has one of the highest priorities. So, if only for that reason, I should say education is the best equalizer; we would have achieved our purpose.

MR. AZCUNA. Thank you.

MR. GUINGONA. Additionally, Madam President, if we agree that education should be one of the top priorities of the government, I would like to also add to what our chairman said during the deliberations on the committee report on Social Justice that the matter of cost also came up with regard to agrarian reform and urban land reform provisions, but we nevertheless approved these provisions conscious of the fact that because these are priority items, they should be given recognition in our draft Constitution.

MR. AZCUNA. Yes. I just would like to add only that the Philippines has been mentioned as one of the few countries that have been able to spread the benefits of education to a great number of its citizens notwithstanding its limited resources.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Natividad be recognized.

THE PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. Thank you, Madam President.

The opening statements on Section 1 (a) on the Article on Education are heartwarming to read and hear, such as:

> Education is the right of every citizen of the Philippines. The State recognizes its duty of providing education to all citizens.

Section 1 (c) states:

> The State shall promote quality education and ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives.

I would like to look at this provision through the eyes of a working student because I think the members of the committee would realize that we have tens of thousands of working students in the Philippines.

MR. VILLACORTA. Yes.

MR. NATIVIDAD. I was one of them and many of us here were former working students. I remember the ambivalent attitude of educators towards working students. I remember a sociology professor of mine in UP who told me that working students are the best citizens of this country because after working the whole day and studying at night, they still try to support a family and send other brothers and sisters to school. On the other hand, from the same university, I remember a political science professor who told me that working students have no place in the university. If they cannot afford to study, they should stay at home and plant camote. During peace time, there was also a political science professor in UP who told me: "You have no business in the university if you cannot afford to buy books or wear a coat."

And now, in Metro Manila, we can see the incredible scenario of young women jostling in the jeepneys, going home at night at 9:30 or 10:00 from schools and going into veritable sweatshops called dormitories just to gain education. We are giving them hope in this by saying "equal access to education." I remember I used to go home at ten o'clock in the evening, eat as fast as I can and study up to 1 o'clock in the morning to be able to maintain my scholarship as a working student in the University of the Philippines.

It is in behalf of these tens of thousands of working students who will read this Constitution that I would like to ask these questions. What is it in this Constitution that will give them a little more hope that they will be able to gain an education? I am not after these professional or full-time students who are supported by their parents. I have never tasted such a privilege. I have always been a working student. I have six academic degrees but I have never been a professional student. And so, what the Commissioner says "system of scholarship grants and other incentives" is hopeful for the working students. However, on the record, this may be not necessarily an amendment. Would these incentives include a little more privilege and hope than what we went through the years that we were studying here in this country?

MR. VILLACORTA. Certainly.

MR. NATIVIDAD. Just for the record, what incentive is the Commissioner thinking of so that we can give hope to the tens of thousands of working students at night here in Manila and elsewhere?

MR. VILLACORTA. We are thinking of stipends, book and clothing allowances and such other incentives that the State may be able to afford to give not only to working students, but also to the poor and deserving students.

MR. NATIVIDAD. Would this include rolling scholarship funds for working students?

MR. VILLACORTA. This section contemplates that as well.

MR. NATIVIDAD. But the Commissioner agrees with my concept that the working students of this country are potentially very good citizens because despite the handicap and the lack of support from their families, they could still keep on plugging to gain an education.

MR. VILLACORTA. The Commissioner epitomizes that example or that truism that working students end up being the ideal citizens and leaders of this country. I know for a fact that even while the Commissioner was still a congressman, he was taking up his doctoral studies at the University of Sto. Tomas. In this committee, we believe that education is a lifelong process and that we should give due importance to working students. I know for a fact that in many universities, part-time working students are discriminated against others when it comes to scholarships preferences which are usually given to full-time but poor and deserving students.

MR. NATIVIDAD. That is why. I overheard the statement of the committee that scholarships will be granted to poor but deserving students. I would like to add depth to this phrase "poor and deserving students." It is easy to be poor; most of these students are poor, but the thing that will make them deserve the scholarship is the next word "deserving." It means high grades and I would like to open our eyes here from actual experiences. When one is a working student, he is usually very conscientious. He is always in a hurry to go to school. There is no time for him to be an editor of any magazine of the school; he cannot participate in any social activities; he closes his eyes to many privileges that other students enjoy; he keeps on studying up to three o'clock in the morning; yet it is very difficult to get good grades because he still has to work eight hours a day. Since he is poor and though his grades are just average, he should still be qualified and be considered for the benefits extended by the government.

When I was in that stage, I recall that I was a little bit lucky because I maintained my full scholarship. I became a partial scholar then in the University of the Philippines. Thus it is very difficult to maintain high scholarship grades when one is a working student.

I think it is not just the grades, it should also be provided that these working students do not flunk or do not give up. There is more to requirement than just high grades that should make us extend this government help to these working students. When I was a working student, I know that I was easily qualified "poor" because I was already an orphan then. But I tried my best and I was luckier than the others that I topped the Civil Service Pensionado Examination several times and I maintained my full scholarship in the University of the Philippines. But that cannot be done all the time. Most of the students cannot do it because it is too difficult to study up to three o'clock in the morning every night. They might become victims of tuberculosis.

So, I believe that when we say that this Constitution will give help to poor and deserving students, the word "deserving" in that part of the statement should not be limited to just good grades. It should also consider the efforts exerted by the student since it is almost impossible for a working student to get good grades. One needs super human efforts to maintain good grades.

MR. GASCON. Yes. In fact, when we say "deserving" we do not necessarily mean simply high grades. We recognize that there are other factors which would be and should be considered such as what the Commissioner has mentioned, but for purposes of this provision, when we speak of tertiary education there is a necessary level of competence which is required.

MR. NATIVIDAD. I agree.

MR. GASCON. But not necessarily high grades.

MR. NATIVIDAD. Yes.

MR. GASCON. However, when we speak of tertiary education and support of the State for certain poor and deserving students there should be a certain level of competence but not necessarily high grades and we have to consider other factors.

Also, there are various kinds of scholarships for those who are highly intelligent. So, we contemplate that we should not only speak of higher grades and excellence in academics.

MR. NATIVIDAD. I am glad that that is on the record.

Another point I would like to raise is on the question of Commissioner de Castro about compulsory elementary education. The good Commissioner asked whether we contemplate the use of truant officers as we had before and the answer was "no." But I was wondering how we can enforce this particular provision that there should be compulsory elementary education, if we will not have a system of truant officers as suggested by Commissioner de Castro because right now we can see children of school age being used as beggars in this city. These children who are plainly of school age are used as tools for begging. Maybe in other countries, these children of school age will have to be challenged by either a truant officer or a police officer, and rightly so, because when this Constitution says "compulsory elementary education," these children must be in the elementary school. They should be asked why they are in the streets during schooltime. So, I would like to repeat that question of Commissioner de Castro if it would not be necessary to implement a system of employing truant officers in order to give life to this particular provision of the draft Constitution.

MR. GUINGONA. In 1940, Commonwealth Act 586, otherwise known as the Educational Act of 1940, was enacted. Pursuant to this Educational Act, the Bureau of Public Schools issued Circular No. 26 dated July 1, 1941 requiring superintendents to report students who have been absent for 10 consecutive days without excuse. This circular even imposes penal sanctions with regard to parents of not less than P20 nor more than P40. However, this circular allowed exceptions. First, it will not affect children who live more than three kilometers away from a public school, or where the public schools are not accessible to these students. Another exemption is if the students are physically or mentally unable to attend classes. The third exemption is for those children who could not afford to go to school because of their economic condition. And then the fourth is, if the students attend a private school. Later on the Educational Act of 1953 added two other grounds, among which was the nonaccommodation of the students in public schools. In other words, if the public schools really cannot accommodate students then there will be no requirement for the students to attend obviously. This matter of compulsory education is used not in a very strict sense and, therefore, the limits or the framework of which could be provided for either by law or by the Ministry of Education, Culture and Sports. As I said before, this could even be considered as relating to the duty of the State to provide public education. However, if the Commissioner is uncomfortable with the word "compulsory," I think the committee would be willing to consider any proposed amendment.

MR. NATIVIDAD. I am not uncomfortable. I like it to be compulsory because that is a big step towards education. What I mean is that we should give a hint to the Congress to provide means so that this can be compulsory like the truant officer because as Commissioner de Castro said, "How can we enforce this compulsory elementary education without somebody enforcing it?"

MR. GUINGONA. So, depending upon circumstances, the legislature could provide the laws while the restrictions, limitations or exemptions can be made in accordance with the circumstances and the times.

I think Commissioners Gascon and Rosario Braid would like to react.

MS. ROSARIO BRAID. When we mentioned linkage of schools with other institutions in the community and other social services – the home, church, health and other social institutions – what we mean is that the responsibility of finding out the reasons for truancy should be done by many institutions. Therefore, the Parent-Teachers Association and the guidance counselling institutions could be strengthened to help look into the problems within the environment of the school itself. So, the implementing mechanisms should be examined in terms of how it can be implemented not just by the school but by other cooperating institutions.

Thank you.

MR. NATIVIDAD. My next question is: I would like to be clarified on the meaning and the concept of the phrase "quality education." Is the Commissioner speaking of the comparative quality of education given in different universities like the former issues on a diploma mill or anything like that? What do we mean exactly by "quality education"?

MR. VILLACORTA. This qualification is being addressed to the sad state of public education that we have now and it commits the State to providing to all citizens quality education and not just free public education. In other words, the State must be conscious of the requirements of high academic standards.

MR. NATIVIDAD. Are we referring to any educational institution now existing when we say "quality education"? Are we comparing something with another thing? That is what I mean.

MR. VILLACORTA. This is not really aimed at comparing, but it is more aimed at stating a goal to achieve certain universally accepted academic standards and to discourage what we call "diploma mills."

MR. NATIVIDAD. So, that enters the picture also although secondarily only.

MR. VILLACORTA. Yes.

MR. NATIVIDAD. For the record, what do we mean by the phrase "liberal education"? How is it compared with "quality education"? There are three terms that I would like to clarify – "quality education," "liberal education" and "integrated system of education." These phrases are all mentioned in these sections chronologically.

MR. VILLACORTA. This is the third time that question was raised and this is probably a sign that we should look for an alternative term. The use of the word "liberal" here does not really connote the idea of free thinking, *per se.* But it really refers to a humanistic type of education to balance the goal of promoting scientific, technological and work-oriented efficiency because we would not want to have the kind of education that emphasizes only the technical aspects. Therefore, when we say "impart liberal education," we refer to the humanities as well as the social sciences. Humanities refer to philosophy, arts, literature, et cetera and social sciences refer to sociology, psychology, et cetera.

So liberal education would have the purpose of developing the complete man, the complete person.

MR. NATIVIDAD. How about the phrase "integrated system of education"?

MR. VILLACORTA. The phrase "integrated system of education" in Section 2 (b) will be explained by Commissioner Guingona who authored this section.

MR. GUINGONA. The word "integrated" has been adopted from the 1973 Constitution, the difference being that in the 1973 Constitution, the Constitution itself does not explain. However, we have attempted to explain this in the last sentence of the cited subsection which says:

> The State shall recognize and strengthen the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

In other words, we are talking here of integration of public and private schools. The word "integration" has various meanings. It could refer to curricular integration and to integration of the various levels. As I mentioned in my previous statement, it could refer to the integration of black and white students as in the United States.

May I just be allowed to quote a few statements from the deliberations of the Constitutional Convention to show that this is the sense of that Convention when they used the word "integrated."

> DELEGATE ALVAREZ. There is an implication here, Mr. Chairman, that in the mainstream of the system of education, the private schools must also belong.
>
> DELEGATE ORTIZ. Remember that "A" implicates that it shall be an educational system. There are two kinds of education mentioned here, public education and private schools. There are those that would want to go to private schools. I would like to ensure the recognition and existence of private schools which form part of that integrated system.
>
> DELEGATE CLEMENTE. I am in favor of the two-track system of education. In other words, I am in favor of the public school system and the private school system to continue.
>
> DELEGATE LAUREL. I am in favor of the addition suggested. I would even go further. As a matter of fact, in this way I would not just establish and maintain a complete system of education, I would say provide a complete, adequate, and integrated system of education of both public and private.

MR. GASCON. Another perspective towards integration is that the educational system is integrated because the three levels of education – elementary, secondary and tertiary – comprise the whole educational machinery which is geared towards the attainment of the national purpose which is socioeconomic development.

So the three levels – the preparations for elementary going on to secondary up to tertiary – are integrated and coordinated towards the national socioeconomic development goals. So that is another perspective on integration, it is not only the issue of private and public education but also the development of education in all the levels.

MS. ROSARIO BRAID. May I just add that it is also the integration of adequate and appropriate knowledge; adequate, appropriate attitudes and values, and adequate and appropriate skills that can be applied towards productivity, social consciousness and social responsibility. In the past there were schools which had focused on knowledge for its own sake. But I think we want to integrate the need also of value or human formation, as well as appropriate skills. Hence, it is the skillful integration of these three concepts that makes for integration.

MR. NATIVIDAD. Thank you.

There have been appeals to us to give emphasis on technical and vocational education. Is the second paragraph of Section 1 (d) on page 2 the response to such an appeal?

MR. VILLACORTA. Yes.

MR. NATIVIDAD. I have a few more questions: Section 2 (h) on page 3 says: "At the option expressed in writing by the parents or guardians." This is about religious instruction. Line 1 on page 4 says: "without additional cost to the government." This means that it can be of cost to the parents, is that correct?

MR. VILLACORTA. Yes.

MR. NATIVIDAD. Lines 12 and 13 of the same page state: "Institutions of higher learning shall enjoy fiscal autonomy."

To a previous question, I heard this means also the private institution. Then what do we mean by the phrase "enjoy fiscal autonomy to private institution"?

MR. VILLACORTA. This means that they will be free to come up with certain financial policies, even including the tuition structure. But as we pointed out, there will be checks to this in the form of the multisectoral bodies composed of parents, students, teachers, employees and administrators who will give their inputs or suggestions to policy-making. This provision applies even to private educational institutions.

MR. NATIVIDAD. Thank you.

Is Section 2 (f) on page 3 an innovative provision or is it presently practiced?

MR. VILLACORTA. Yes, this provision is being practiced in some institutions only, but not in all schools.

MR. NATIVIDAD. We will make it of more pervasive application?

MR. VILLACORTA. Yes.

MR. NATIVIDAD. Thank you.

MR. VILLACORTA. Thank you.

MR. SARMIENTO. Madam President, may I ask that Commissioner Maambong be recognized.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, I notice that a good number of us are interpellating the committee because a majority of us here are teachers.

I would like to inform the committee that I am interested in this provision because I, myself, am a teacher. My mother has retired as a public school teacher. As a matter of fact, she insisted on attending our session probably within this week. My father, after his retirement as a judge, was also a teacher. So, I hope the committee will understand that everybody is interested in these provisions.

I can assure the committee that my interpellations would not be on the substance but more on the structural presentation of the provision. I have distributed to the committee a sort of outline of the provisions, and I notice that Commissioner Davide and Monsod have presented their own amendments more on the structure of the provisions. Hence, that will save me the trouble of presenting my own amendments.

I am also interested in this because I have been assigned by Commissioner Guingona, our chairman of the Committee on Sponsorship, as vice-chairman of a subcommittee on sequencing — a very unglamorous subcommittee — and I would rather ask Commissioner Guingona to restructure this subcommittee to a Subcommittee on Structural Arrangement. This will make it more elegant in some way.

I notice that the provisions on education could be divided very easily into four parts: One would be the general statement of the right of a citizen to education which covers noninterference in the selection of a profession. The other parts would be the role of the State; the role of educational institutions; and the provisions on teachers, researchers and nonteaching academic personnel.

I was wondering that with this structural arrangement, we could probably rearrange our provisions, considering that in Section 2 we have a section composed of so many subsections up to letter (i). We could probably arrange this in some way.

I suppose that all these provisions established the structure of the Philippine educational system. My question on this is: Would this provision of the Constitution on the establishment of the structure of the Philippine educational system repeal or amend in some way the present decrees that we have?

MR. VILLACORTA. I suppose that the presidential decrees now existing which would contradict the provisions that we are proposing will have to be repealed in case our draft article is approved.

MR. MAAMBONG. In other words, the Commissioner is suggesting that the new structure under the present formulation would, in one way or another, affect not only the decrees that we have but also the standard laws on the Philippine educational system, is that it?

MR. VILLACORTA. That is our assumption because we are making the fundamental law that will supersede all existing laws.

MR. MAAMBONG. Under the present formulation, are the goals, the aims and objectives of education under our present laws .affected? Are the goals and aims of education the same under the present formulation and in the past?

MR. VILLACORTA. To the extent that they are not contradictory to the principles and guidelines that are proposed here, I do not think they will be influenced adversely; that is, for as long as the existing laws would be consistent with the principles of guidelines that we are formulating.

MR. MAAMBONG. Thank you.

What about the said supervision, regulation and administration of educational institutions, would there be any change with the approval of this formulation that we have now?

MR. VILLACORTA. I do not think so, because this provision was also found in the other Constitutions. We just added the word "reasonable" because many educational institutions including state colleges and universities, are expressing certain complaints, concerning the undue intrusion of the State in their internal affairs.

MR. MAAMBONG. What about the provisions which I conceive to be the democratization of access to education? Is this a departure from the present policy of the administration and of the government?

MR. VILLACORTA. It is just a strengthening of the goal of this government, as well as of the past governments.

MR. MAAMBONG. So, it actually existed in the past. Is this democratizing of access to education already embodied in the previous Constitutions and the laws?

MR. VILLACORTA. There were a lot of loopholes, a lot of weaknesses in the existing rules and laws in the past. And here we are trying not only to strengthen but to make clearer the intentions of the past Constitutions and laws by constitutionalizing certain mechanisms by which we can equalize access.

MR. MAAMBONG. I welcome that.

On another point: Is there any change in the policy of government assistance to private schools, compared with the past and present formulations?

MR. VILLACORTA. There is an improvement in the form of assistance. For one thing, we are proposing a tax exemption for nonprofit and nonstock schools and we are also suggesting that we provide subsidy to accredited educational institutions as may be provided by law.

MR. MAAMBONG. Now that the Commissioner mentions it – I do not know if I heard it correctly or not – but I seem to have recalled an answer from one of the committee members that the real estate of private educational institutions are not exempt from real estate taxes. Is that the answer of the committee?

MR. VILLACORTA. I understand that that has already been settled during our discussions on the Article on the Legislative. Those institutions engaged in charity and education are exempt from real estate taxes.

MR. MAAMBONG. I was concerned about that answer because, as the Commissioner said, there is such an exemption as provided in Section 29 of the Article on the Legislative. Considering this provision under Section 29 of the Article on the Legislative, I would like also to know from the committee if P.D. No. 675 which provides for a descending rate of discounts on real estate taxation would already be repealed by this particular provision on the Legislative.

MR. VILLACORTA. The Commissioner's interpretation is right.

MR. MAAMBONG. Thank you.

My final question is: What about the provisions on personnel actions and policies, are there any changes in the past and present formulations?

MR. VILLACORTA. Is the Commissioner referring to this provision that guarantees the right of assembly and concerted activities?

MR. MAAMBONG. Yes, and also to the provision regarding the formulation of educational policies. Are these provisions new?

MR. VILLACORTA. These would be new provisions.

MR. MAAMBONG. As mentioned in my paper, the Article on Education appears to be a litany of duties and obligations of the State. With the submission of Commissioners Davide and Monsod, we can probably rearrange the provisions so that we will not have a hard time looking for what the State is to establish, maintain and support; provide, promote and protect; exercise or take into account or to encourage. I hope the committee will take that into consideration.

MR. VILLACORTA. Certainly, we are very thankful and we shall take these proposals into consideration.

MR. MAAMBONG. Thank you very much.

MR. VILLACORTA. Thank you.

MR. MAAMBONG. Thank you, Madam President.

MR. SARMIENTO. Madam President, may I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I just want to clarify certain principles. Am I correct in assuming that the phrase "socialized fee structure" under Section 1 (b) means that the beneficiaries will be the underprivileged and the poor?

MR. VILLACORTA. That is the intention.

MR. MONSOD. Then, if I may suggest the restatement, perhaps we should reflect in the provisions the intent of the committee by eliminating the possibility of the tuition fees to be unduly low. That could be the interpretation. When we lower the tuition fees, then we benefit the rich and the poor. The rich do not need that help. So, what I am suggesting is that we should allow the schools to charge the full cost of the tuition and then give direct assistance to the poor.

MR. GASCON. The "socialized fee structure," as it is intended here, refers to state colleges and universities. At present, the cost of education in all state colleges and universities is not totally charged to the students. There is a direct state subsidy already. The "socialized fee structure," as it is proposed now, would actually mean that the poor will get more subsidy than the rich.

MR. MONSOD. Yes, but my suggestion is not to mention at all the "socialized fee structure," because it does open the door to subsidizing those who can afford. What we should have is a system that does not mention "socialized fee structure" but a comprehensive system of scholarship grants, loan programs and other incentives which should be directed to deserving students on the basis of the needs. Those who are rich and have high academic standings can be given honorific distinctions without money subsidy. It is the poor who need the grants, loan programs and other incentives. This is a more efficient way to directly help the poor students rather than through the fee structure in the state colleges for two reasons: (1) we are not benefitting those who really are willing to pay and can afford to pay; and (2) we will even give the students an option of where to go – whether to go to a private school or to a public school. I am also suggesting that we eliminate the section on subsidy to private educational institutions because that could be an opening for "palakasan" on who gets accredited and who gets the subsidy. That would also interfere with the choice of students, because automatically when we subsidize one private school as against another, we are, in effect, giving incentives to students to go to the subsidized schools since the tuition rates in that school would be presumably lower. Hence, in a market of schools, if all the schools were allowed to charge their full cost but we have a nationwide comprehensive system of helping the poor students, then the assistance to the schools will not be diverted. It might possibly go to the pockets of the stockholders or of the contractors of the school. But if we directly subsidize the students, then we are addressing ourselves to the immediate problem and to the long-term problem as well as to students who cannot afford to go to schools.

Secondly, I am suggesting that the forms of assistance can even be beyond subsidy for tuition because even when the tuition is subsidized, there are still many students who cannot go to school because they do not have money for their "baon," shoes and notebooks. So, the comprehensive system of subsidy would really help these poor students directly, and not the schools or rich students who can afford.

Does the committee agree with this approach? If the committee agrees, then we can offer amendments to implement this kind of philosophy.

MR. GASCON. There are two principles which we have to clarify first. The first is the issue on public education. When we speak of public education in the tertiary level, the attitude is that the State has a responsibility to provide for tertiary public education. These are the state colleges and universities as opposed to those in private schools.

My understanding of what the Commissioner is saying is that even state colleges and universities which are open to any student, whether he be rich or poor, should charge the cost of education. So this would be equal to those private schools that also charge the cost of education. I would like to clarify this point. It would be a possibility that the University of the Philippines would charge the same amount as that of Ateneo University. What the Commissioner is saying now is that the poor students who are entering UP will pay less because they will be directly subsidized. I would object to that because even the rich students who would be entering UP as scholars should also be provided with subsidy since it is a state university. So, let us first differentiate between the private institutions which may be afforded subsidy as opposed to state universities and colleges. The situation in state universities and colleges at present is that their admission system is biased in favor of those who come from private schools – the admission slip being written, for example, primarily in English. What we would like to do is to democratize access to state colleges and universities through a socialized system, assuring the poor students who are intelligent enough to enter state colleges and universities to be afforded greater subsidy than the rich. That is in state colleges and universities. So, what we have to first define is the dichotomy between private universities and state colleges and universities.

MR. MONSOD. I agree with the Commissioner regarding the dichotomy, but I disagree with him in his saying that even the rich should be subsidized in state universities. The problem with our state universities is that they are dilapidated. The facilities, laboratory and other equipment are not sufficient due to lack of funds. We can say that the government can divert more funds to education. But what I am saying is that those who can afford to pay are really willing to pay provided that the quality is there. That is why many of those who can afford tend to go abroad. Why do they go abroad? They spend 20, 30 to 50 times more when they go abroad; they do not really mind paying. I have children there in UP and I do not know why they are being charged at a very low rate. We are willing to pay provided the quality of education is there and the school facilities are sufficient. Hence, we should give the subsidy to the poor.

MR. GASCON. Exactly. The socialized fee structure in state colleges and universities recognizes that inequality among their students. Therefore, the intent is that the rich students in state colleges and universities would actually be paying more than the poor. However, because of its nature as a state college and university, it may not be true to its principle if there were not even a little subsidy for the students. A hypothetical example is a state college or university which is supposed to provide subsidy to all students. The rich may probably be subsidized to only 10 percent while the very poor will be subsidized to 90 percent of their education.

MR. MONSOD. I do not want to prolong the argument, but I just want to suggest that the primary objective of a state university – we are talking about the benefits to the country – is to offer quality education which was expressed very well in the committee report. If that means that the rich will be charged full cost, then by all means let us charge those who can afford full cost and concentrate on those who cannot afford.

MR. GUINGONA. May I also be allowed to react? Commissioner Gascon reacted in relation to state colleges and universities. I would like to react in relation to private educational institutions.

Offhand, I would agree with the Commissioner's proposal in principle even in the matter of nonextension of subsidy, but I would perhaps suggest a qualification that this should not be exclusive in the sense that it would close the door to assistance in incentives to private educational institutions in the form of soft loans, so that these private educational institutions could improve their facilities, laboratory, library and so forth.

MR. MONSOD. What I am saying is that when we subsidize those who cannot afford, then we are also enabling private institutions to be financially viable because these institutions can charge their students the full tuition fees. Once the subsidy goes to the students, then the students will go to the public or private schools that offer quality education. Some private schools will be forced to compete in quality because the students will go to them even when they are charging full cost.

With respect to subsidies to private institutions, my reservation is on the system of choosing which school will get the subsidy. When we allow private institutions to charge their tuition fees but we subsidize the students, then we become indiscriminate. We are not discriminating within the school system. Those who deserve to be financially viable will earn it through the tuition fees, not directly through government assistance. If we subsidize, we give the judgment and the decision on which schools are going to be subsidized to a few government bureaucrats.

MR. GUINGONA. That is why I am agreeable to the Commissioner's proposal regarding subsidy. I am not challenging that. What I am just saying is that we should not close the door to giving assistance and incentives to the private educational institutions according to their needs. Regarding the increase of tuition fees of private educational institutions, this is a practical matter to consider. There is a limit to the increase of tuition fees beyond which the enrollment would drop because the students cannot afford. I have cited here before the case of the Central Colleges of the Philippines where the records show that only 10 percent of those who have stopped studying have asked for transfer. This means that 90 percent stopped studying because they could not afford. Hence, if we increase the tuition fee, we will decrease the number of students who can afford.

The Commissioner talks of subsidy which is a very good thing, but as former Senator Rodrigo has pointed out, perhaps in the immediate future the government may not be in a position to give the subsidy that the Commissioner is contemplating.

MR. MONSOD. Precisely, subsidizing deserving students, especially the underprivileged, is a more efficient way of subsidizing because we are not diluting the subsidy at the school level. Also, we are not diluting the subsidy by subsidizing those who can afford.

MS. ROSARIO BRAID. I think Commissioner Monsod's proposal is acceptable to the committee, and I wonder if he could submit a provision during the period of amendments.

MR. MONSOD. Actually, it is reflected in my suggested formulation which takes away references to socialized tuition fees and subsidies and emphasizes scholarship grants, loan programs and incentives to the students especially the underprivileged. Maybe we can consider that later on.

MR. VILLACORTA. As a matter of fact, our committee is thinking of holding a caucus with those colleagues of ours in the Commission who have amendments so that we can work together on the possibility of incorporating these amendments and harmonizing them with our proposed provisions to save time.

MR. MONSOD. Thank you.

MR. VILLACORTA. Would this evening be acceptable?

MR. MONSOD. Yes, anytime at the committee's convenience.

The other point I want to make – I know this has been overdiscussed – is the question on liberal education. The only reason I am raising it is that there was a statement from a member of the committee that knowledge for its own sake should be subordinate to knowledge as related to socioeconomic development. My only point, as I understand the committee's report, is precisely that liberal education has a role for the pursuit of knowledge which may have no immediate application to socioeconomic development but really blazing trails for the future. This is the relationship between pure research and applied research, and pure knowledge acquisition as against applied knowledge. I thought that was the intention of the Commissioner in using that phrase.

MR. VILLACORTA. There was no intention on the part of the committee to exclude knowledge for its own sake or pure or basic research which we feel is very important in the scientific and technological development of the country. So we are for both pure research as well as applied research.

MR. MONSOD. Thank you.

My question now is on fiscal autonomy. Perhaps, the committee should recall the question on fiscal autonomy because when we discussed this section on the Commission on Audit which this Commission has already approved, we eliminated the preaudit on educational institutions precisely because this has been used unfortunately in the past in order to hamstrung the operations of the schools. In the case of UP, when the lights conked out, they had the problem regarding the transformer. That transformer has been subject to preaudit and the personnel concerned have not been able to buy it. So in the section on the Commission on Audit, we already gave educational institutions the exemption from preaudit of the COA provided their systems are in order. Hence, when we talk about fiscal autonomy for public institutions, I wonder if we are going too many steps ahead on this because there must be some checks and balances left. Since we have eliminated the preaudit of the COA, perhaps, we should not think of the fiscal autonomy in the same light as that of the Judiciary or the constitutional commissions. This is just our comment. The Commissioner might want to consider that.

Secondly, when we talk of fiscal autonomy for the private institutions, I cannot grasp the meaning of that because private institutions have their own board and so on. Usually when we talk about fiscal autonomy, it is fiscal autonomy from a superior or higher body.

In the case of private educational institutions, what is the superior or higher body from which we will ask fiscal autonomy?

REV. RIGOS. Mr. Chairman, I have a slightly different understanding of fiscal autonomy in this particular provision. When the committee discussed this, at least I had in mind primarily the fiscal autonomy of the public schools, not of the private schools.

MR. MONSOD. Thank you.

So the only issue is whether the public schools will still need fiscal autonomy in the context of exempting them from the preaudit of the COA. I guess this is something that the committee can think about.

MR. VILLACORTA. We will consider that.

MR. MONSOD. Yes. The last point is the question of religious instruction, regarding the phrase "express consent of the parents in writing." When we were in high school and college, one of the problems encountered by those who were engaged in catechism was focused on parents who were illiterate, parents who did not bother to sign the consent, more especially those in the rural sector. Hence, I am wondering whether we can eliminate that phrase. Anyway, the parents have the right to object when we already say "at the option of the parents." If the parents object, then they have not exercised any option. Can we adopt a philosophy of implied consent rather than asking for a consent expressly made in writing?

REV. RIGOS. I think the system in which the written preference of the parents or guardians is required in the form of writing has worked beautifully. Unless we encounter any contrary experience, we may have no reason to change this arrangement. It is true that in a number of cases, the illiterate parents will not be able to express in writing the option to offer religious instruction to their children, but we should regard that as the exception rather than the rule.

MR. MONSOD. I am just wondering if it is an unnecessary requirement since we are already stating that it is at the option of the parents. Therefore, if they object, they have not exercised the option. So, it may not be a necessary phrase. That is all I am referring to.

Thank you.

MR. VILLACORTA. Thank you.

MR. SARMIENTO. Madam President, may I ask that Commissioner Tan be recognized for her interpellations.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. Madam President, I am a member of the committee. However, may I say what I have to voice out because during the committee meetings this particular subject matter had not dawned on me. However, with these debates on the floor, it has dawned on me. So, I am aware of our committee's deletion of the phrase of the 1973 Constitution on page 3, line 2, which states: "Private educational institutions shall be owned and administered solely by citizens." So what was deleted was the insertion: "other than those reestablished by religious orders, missionary boards and charitable organizations." But after listening to what has been said, especially by Commissioner Rama, I am wondering if the committee would consider its reinclusion for the following reasons: While I do not believe that any church should have special privileges, I think we should consider the following: the first is that these little missionary schools in far-flung areas in which sometimes one has to cross about seven rivers to get to them, reach Filipinos who are not reachable even by electricity and by running water. Another reason is that these foreign missionaries obviously cannot be placed in the same category as the foreigners in our multinational corporations. The third is, if we impose sole ownership of missionary stations to Filipinos only, we realize that these missionaries have to resort to means of circumventing the law in order to exist. This arrangement would, therefore, presume the following: (1) that the foreign missionary has Filipino counterparts; (2) that the foreign missionary may not have a mother organization which can act as owner; and (3) that the foreign missionary might belong to a diocese where the bishop is willing to be the owner even if, in reality, he is not. These bishops are rare to find. However, these three conditions do not always exist. Hence, what will happen to these foreign stations in far-flung areas? I am just asking the committee to reconsider the deletion.

Thank you.

MR. VILLACORTA. We are open to suggestions. However, to guide our committee in making its decision, maybe the Commissioner, as well as the other honorable Commissioners who have made manifestations on the restoration of that phrase "except religious schools," could provide us with the exact data on how many foreign missionary schools we have in the Philippines because if there were only one or two, I do not think that we should constitutionalize provisions for the sake of a very small minority. We could probably make the provision clearer in terms of what the exceptions are, and this will only be embodied in the minutes of the Journal, rather than being provided in the Constitution. I consulted Dr. Adrian Arcelo, vice-president of the Fund for Assistance to Private Education and he said that there were only three schools that he knew which were foreign-owned. These schools are (1) the International School in Makati; (2) the Brent School in Baguio City; and (3) the Asian Institute of Management. However, Commissioner Tingson also mentioned the Faith Academy. So, if there are only less than ten schools which are foreign-owned, we probably need not worry too much about them. Hence, if we ought to have a provision that will take care of these exceptions, then it should probably be stated in another form but not in the same manner as it was stated in the 1973 Constitution.

SR. TAN. The point is that it was in the 1973 Constitution, but here it has been deleted. So, there must be great reasons for deleting it.

MR. GUINGONA. Madam President, may I just invite the attention of the honorable Commissioners to a suggestion made during a forum sponsored by the FAPE, the Phi Delta Kappa and the MECS, which our distinguished chairman, some members of this committee and I have attended? I recall that Assistant Minister Tomas Santos had suggested, by way of a compromise, that perhaps this provision could be included in our draft proposal but that it should contain the proviso that insofar as those that are already established before the ratification of the Constitution are concerned— I am referring now to the mission boards and so forth – they would not be affected.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. As a comment, may I just add that if the deletion of that provision in the Constitution would prevent other foreign missionaries from establishing schools, it would not only be a question of how many there are actually now but whether or not we are preventing possibilities for the future.

MR. VILLACORTA. Commissioner Quesada would like to say something.

MS. QUESADA. Madam President, the principle that guided the committee in the deletion of the 1973 constitutional provision was the belief that we are now producing our own missionaries, our own church workers, so that there is the faith again that we will be able to become more self-reliant in evangelization and in the work of the Church, so that we are giving the mandate for our own church sector to be able to provide this necessary church work.

BISHOP BACANI. Madam President, if I may again comment on that, in the Catholic Church today, there is the idea of mission as exchange and while we realize that the time has come for us to send our own missionaries, we also stress that we ought to continue receiving; that there is this exchange; that there is no one single church that is simply a receiving church or a sending church, but that each church must both be a sending and a receiving church.

MS. QUESADA. Madam President, I think the idea is not to prevent the receiving of foreign missionaries. The words "own and administer" do not preempt the coming in, the sharing of expertise or knowledge and the services of other foreign missionaries to expand and to enrich the work of the local missionaries.

BISHOP BACANI. It will be very difficult for those who are coming here for the first time, and there are many of them, especially at this time.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. On this point, may I ask a question. As we know, deleting a provision of an existing Constitution has serious implications; so, I would like to know: Has this phrase in the 1973 Constitution, "other than those established by religious orders, mission boards and charitable organizations . . .," produced any harm in our country?

MR. VILLACORTA. Madam President, we are not saying that it has produced harm.

MR. RODRIGO. Then why delete it?

MR. VILLACORTA. We just wanted more self-reliance, as pointed out by Commissioner Quesada, more Filipinization not just in ownership but in terms of values on the kind of education provided, because the assumption is that there is greater likelihood that education will be more Filipino-oriented if the ownership and management of a certain school is Filipino.

MR. RODRIGO. Has this provision in the 1973 Constitution retarded the Filipinization of our schools?

MR. VILLACORTA. We do not have ready evidence to prove that but we know of certain schools which had experienced internecine clashes among local as well as foreign members of the congregation running the school, and we thought that by constitutionalizing Filipinization we would prevent these conflicts.

On the positive side, we noted that those schools that have Filipinized have become very progressive since the Filipinization.

MR. RODRIGO. Yes, but those schools were Filipinized in spite of this provision. So, this is no hindrance to Filipinizing schools. But the deletion of this will definitely stop, prevent, hinder or discourage foreign missionaries from coming here and establishing schools, especially in our undeveloped areas. This is all I wanted to place on record.

Thank you.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. May I also invite attention that in the 1973 Constitution, in addition to those mentioned by Commissioners Tan and Rodrigo, there was a provision on corporations or associations 60 *per centum* of the capital of which is owned by foreigners. That also has been omitted or deleted, meaning, converting it now to wholly owned corporations. That is a significant deletion. I wonder whether the purpose is to prevent such a joint venture in that corporation.

MR. VILLACORTA. Yes, Madam President. The committee feels that wholly owned structure of ownership would be conducive to the Filipinization of the content as well as direction of our educational system, following the examples of many other countries where the ownership of schools is left or reserved to nationals of those countries.

MR. COLAYCO. Madam President, may I be recognized?

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. I would like to ask the committee a clarificatory question. I am not an educator but I think there is a rule that all schools, whether owned by Filipino citizens or corporations or otherwise, are required to follow a curriculum dictated by our government. Is that so?

MR. VILLACORTA. At the present time, there is that tendency in the Ministry of Education, Culture and Sports.

MR. COLAYCO. No, it is not only a tendency. Is there a rule?

MR. VILLACORTA. That would follow the 1973 provision where there should be supervision and regulation by the State. But what we are trying to propose in this article is that there should be reasonable regulation and supervision.

MR. COLAYCO. No, I am asking a question.

MR. VILLACORTA. And the trend should be towards deregulation.

MR. COLAYCO. I am asking a question, Madam President. Is there not a regulation now which requires that the subject of Philippine history and other pertinent and relevant subjects on Filipino culture and tradition must be included in the curriculum of all schools in the Philippines?

MR. VILLACORTA. Yes, Madam President.

MR. COLAYCO. Is that not so?

MR. VILLACORTA. That is so.

MR. COLAYCO. So, what harm can there be if a small parochial school in Mindanao is started, run and subsidized by foreign missions with money not taken from our own country? What fear should there be that the students attending such schools might turn out to be anti-Filipinos, if that is the concern of the committee?

MR. VILLACORTA. May I reverse the question, Madam President? What is wrong with Filipinos owning these missionary schools?

MR. COLAYCO. There is nothing wrong at all but there is a big mistake. It would be a big mistake for us to insist that no school should be run in the Philippines unless owned and directed especially by Filipinos. We are becoming too paranoid about this.

MR. VILLACORTA. We are not being paranoid, Madam President.

MR. COLAYCO. That is what is being shown now.

MR. VILLACORTA. Again, this might stir a tempest in the teacup.

MR. COLAYCO. No, do not worry about that.

MR. VILLACORTA. I do not know why we are so worried with foreigners. Why are we so worried with foreigners and why are we less concerned with Filipino ownership?

MR. COLAYCO. For the simple reason that our government cannot afford it yet.

MR. VILLACORTA. It is not.

MR. COLAYCO. I know of many poor families in our neighborhood who have been trying to place their children in the primary school, but they said they have to be turned away because we cannot afford to have classrooms and schoolhouses.

MS. ROSARIO BRAID. Madam President, I think the spirit of this provision is not really to discourage the coming of our friends who would like to help us set up schools but to encourage the transfer of know-how and management to Filipinos so that we can work in partnership.

MR. COLAYCO. Just a minute. Let me read the wording of the committee: "Private educational institutions shall be owned and administered solely by citizens of the Philippines."

I am proud to be a Filipino, but why this exclusive and absolute prohibition? We had it running well under the 1973 Constitution. What harm can missionaries – be they Chinese, Russians or whoever they may be – cause to our country if they follow the curriculum dictated by our own government? What I am saying is, as of this moment, these schools are helping our country. We cannot afford not to have all these schools.

MS. ROSARIO BRAID. But as we all know, when some of us go to other countries under the auspices of international agencies, like UN agencies or others, we work in partnership with the nationals in the spirit of encouraging self-reliance. And we were able to do an effective job in really working on any area hand in hand. This is intended to encourage the development of technology.

MR. COLAYCO. That is what I am saying, Madam President. We are emphasizing too much self-reliance, and we cannot afford to be self-reliant yet, at least in primary education. I am not speaking of universities nor of high schools. I am speaking of the simple, almost free, missionary schools. But under the terms of this section we cannot even tolerate them when they are trying to help us.

MR. VILLACORTA. May I ask the Commissioner a question? Would he welcome the idea of the Maharishi group which is a missionary group?

MR. COLAYCO. We are going to extremes there, Madam President.

MR. VILLACORTA. I beg the Commissioner's pardon?

MR. COLAYCO. We are going to extremes there.

MR. VILLACORTA. No, this is not an extreme. I am asking the Gentleman a question. Would he welcome the idea of the Maharishi establishing schools in the far-flung areas of the country?

MR. COLAYCO. I cannot answer that question because I do not know the Maharishis.

MR. VILLACORTA. And then, would the Gentleman also welcome the idea of Taiwan-based missionaries or private businessmen establishing schools in the Philippines?

MR. COLAYCO. No, I am not speaking of privately-controlled schools. I am speaking of missionaries – Protestant and Catholic missionaries. They are all good, whether they are Americans, Chinese or whatever. What I am saying is that we have all the controls.

MR. VILLACORTA. No, Madam President, we do not have all the controls.

MR. COLAYCO. Then put the controls.

MR. VILLACORTA. Even if we just prescribe a curriculum, it is still the people who implement these curricula.

MR. COLAYCO. That is what I am saying. We are paranoid about this. Let us be reasonable.

MR. VILLACORTA. We are not being paranoid. We just have more confidence in our own people.

MS. QUESADA. Madam President.

MR. COLAYCO. I can understand the Commissioner's outlook.

REV. RIGOS. I hope I expressed the spirit of the committee when I said that we would be willing to consider an amendment to this section.

MR. COLAYCO. Yes, I will be glad to do that.

REV. RIGOS. Especially the possibility of retaining the 1973 provision on schools established by mission boards and religious orders.

MR. COLAYCO. Thank you very much, Madam President.

MR. GASCON. I believe Commissioner Tan wishes to react.

SR. TAN. Madam President, I think Commissioner Rosario Braid explained it well – that the spirit behind the proposed deletion is to encourage us, Filipinos, to become self-reliant and to encourage the foreigners to transfer what they know to us. And I accept that. And if we want to amend the ownership, I think it should only be a minor amendment, but I accept the spirit.

Thank you.

MR. SARMIENTO. Madam President, may I be allowed to ask a few questions?

THE PRESIDENT. Please proceed.

MR. SARMIENTO. My first question is with respect to Section 2 (a) which reads: "All educational institutions shall inculcate nationalism." We have many concepts of nationalism. We have the barangay-Tagalog nationalism; we have the tinikling nationalism; and we have this kind of nationalism which I would like to share with the committee.

Filipino nationalism is the determination to uphold the sovereignty of the Filipino people, the right of the Filipinos to freely decide the destiny of the nation – that is, the kind of government we should have and who should run it; what is the common good and how to attain it; how our society should be structured; how the wealth of our land and seas should be used, developed and shared; and how our culture should be preserved and enhanced. Filipino nationalism is more than patriotism. It is more than love of land and people, loyalty to flag and country and readiness to sacrifice personal interest for the common good. It is the firm resolve never to allow our people to be dominated, controlled by foreign powers or domestic tyrants and to oppose totalitarianism, imperialism, and hegemony with all the means at our command. May I know if this is the committee's concept of nationalism?

MR. GASCON. I believe we could not have expressed it as well as the Gentleman has.

MR. SARMIENTO. Thank you, Madam President.

May I go to another point?

THE PRESIDENT. Please proceed.

MR. SARMIENTO. This will be on Section 3 of the article which speaks of academic freedom. Just the other day, the book of Father Bernas was widely quoted by the members of the committee. The same book stated that Philippine decisional law, like the American decisional law on academic freedom, may be described as formless and almost rudimentary. And Father Bernas said:

> It could be that no occasion for litigation has arisen because of the happy or unimpaired freedom enjoyed by the academic world. It could also be because of general ignorance or unconcern about the purpose, the need and the importance of academic freedom.

During the past administration, however, many cases involving the students were filed in the Supreme Court and we handled some of these cases. For instance, we have the case of *Malabanan vs. Ramento and the Gregorio Araneta University Foundation,* 129 SCRA, 359, 1984. We have *Biriña vs. the Philippine Maritime Institute,* 117 SCRA, 581, 1982. And lately, we have *Villar vs. Technological Institute of the Philippines,* 1985 decision.

In the case of *Malabanan vs. Ramento,* the Supreme Court said that the students have the right to peaceable assembly and free speech. In *Biriña vs. the Philippine Maritime Institute,* the Supreme Court said that before disciplinary actions could be made on the students, the right to due process of law should be respected. And in the latest case of *Villar vs. Technological Institute of the Philippines,* the Supreme Court said that the students have the right to peaceable assembly, free speech and the right to equal protection.

May I know from the committee if these latest Supreme Court decisions are vital components of the students' right or students' academic freedom?

MR. GASCON. Yes, Madam President. In fact, it will be noticed that the amendment, as it is proposed now by the committee, is that we state it very clearly that students will be afforded academic freedom because during the Marcos dictatorship it was not given to them. In fact, there had been lots of student suppression in varying forms that occurred in schools, from the basic right to organize to the right to have campus publications and student councils. These were all denied the students and we want to assert very clearly now that such a situation shall not occur any longer.

MR. SARMIENTO. We have no jurisprudence concerning participation of students in the governance of the institution but U.S. courts, law professors and other authorities agree that students enjoy the right to participate in the governance of the institution. We have, for instance, these articles appearing in the *Harvard Law Review,* entitled: "Academic Freedom." We also have this article written by the American Civil Liberties Union, entitled: "Academic Freedom in the Secondary Schools." May I know from the committee if this right is a vital component of the students' academic freedom?

MR. GASCON. It is the belief of quite a number of members of the committee that the students have a right to participate in policy-making in the educational institutions especially in tertiary education.

MR. SARMIENTO. I have my last question. During the past administration, we had many World Bank education projects. For instance, in 1964 we had the first World Bank education project which was a $6-million assistance loan to the University of the Philippines College of Agriculture in Los Baños for the improvement of its facilities. Then we had the second World Bank education project covering the year 1973-1978. This was a project intended to set up training centers in both rural and urban areas and it was geared towards holding the acute shortage in skilled manpower in foreign-owned industrial and agricultural enterprises. From 1976-1981, we had the third World Bank education project; from 1977 to 1982, the fourth; and from April to August 1978, the fifth. This project focuses on facilitating instruction in practical subjects in the secondary level and nonformal education via the mass media. It supports the development of educational radio for classroom use and in-service teacher training. And lastly, we had the seventh World Bank education project, covering the years 1982-1985, the purpose of which was to improve the overall quality and efficacy of elementary education by skill development.

According to World Bank President Robert McNamara, effective elementary education helps make the labor force more easily trainable and mobile. It facilitates skill development during a subsequent formal and on-the-job training, as well as through agricultural and industrial extension programs.

My question is this: The committee has formulated a section in the Article on Education which reads:

> The State shall provide a comprehensive approach to education by coordinating formal, nonformal and informal, indigenous learning systems, . . .
>
> The State shall provide civic, vocational efficiency and other skills training to adult citizens, to the disabled and out-of-school youth.

May I know if we have in mind the various World Bank education programs or projects when we formulated Section 1 (d) in the Article on Education?

MS. ROSARIO BRAID. Madam President, there was extensive research and we took into account the formulation of all the education projects cited, as well as the recommendations made by the World Bank Report during the early 1970's. At the same time, the International Labor Organization did a similar study which is contained in the book, *Sharing in Development* in the Ranis Report. But our government took consideration of the World Bank Report and came up with its programs in the early 1970's.

We recognize the billions of dollars and additional counterpart funds from the Philippine government which were spent in the implementation of these programs – the EDPITAF, communication technology program, agricultural education engineering, PRODED, etc. But we are not satisfied with whatever evaluation that has been made of these projects which are still continuing.

We feel that the ILO Report, which is demand-oriented, particularly on nonformal education, should perhaps be given attention; it was entirely ignored. We hope that this provision here, even if it is in one provision only, would attempt to focus attention on demand-oriented education, integrating both formal and nonformal education and perhaps learning from the lessons of the past when, as we are all aware, several millions had been wasted in preinvestment study on communication technology and agricultural education. They have trained agriculturists who would rather go to other occupations than to the farm. And we have other indicators which seem to point that the whole decade of investment in education has been a failure, to say the least.

So, we hope that priority attention be given to examining the failures and the expenses incurred in this EDPITAF and all the PRODED projects in order that we can come up with a more appropriate formal and nonformal education systems.

MR. GASCON. When we speak of more appropriate formal and nonformal educational system, we also speak of it from the perspective of developing indigenous learning systems and encouraging self-reliance. It is also a fact that some of these World Bank-funded programs have led to detrimental foreign influence in the minds of the young, especially among children in the elementary grades. One example was the PRODED program which loans were normally for financing textbooks, training centers, improving technical schools, and the training of teachers. The textbook project was the most damaging because it seeks to influence the minds of the very young in the hope that the following may be achieved: 1) an acceptance of the continued foreign domination of Philippine economy; 2) a creation of a ready and skilled manpower pool for foreign-owned industries; 3) acceptance of the superiority of foreign products and values and glorification of the colonial past. In fact, even the Ministry of Education, Culture and Sports now has prepared a manual for teachers to reassess this particular textbook project of the PRODED. The textbooks were written for students in the elementary grades, because aside from the glorification of our dependency on loans, etc., it also spoke of the past dispensation by Mr. and Mrs. Marcos as heroes and saviors of our land. And at this present point in time, there is an attempt to reassess this situation.

My point is that our overdependence on such World Bank-funded projects led us to certain situations which were not beneficial to the realization of our nationalist aspirations.

MS. ROSARIO BRAID. May I add that with the investments made on the different projects, we could have really set up effective centers for nonformal education all over the country rather than just have a few pilot programs, and yet this has not been done. That is why we said we hope to evaluate all this experience over the past decade and see how we can really come up with a more efficient as well as effective delivery system.

MR. SARMIENTO. Thank you, Madam President.

May I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

May I be permitted to ask some clarificatory questions, and I will start with a follow-up on this World Bank-funded educational programs.

I would like to find out the extent of the influence of foreign interests or foreign values on the present school curriculum or on our present educational system, because it is a fact that any loan obtained by the Philippine Government would contain certain conditions which must have to be implemented and vigorously followed. And so, in the matter of education, I heard Commissioner Gascon enumerate several of these projects with obvious foreign content now being imbedded in the educational system.

Would the approval of the proposal of the Committee on Human Resources, more particularly on education, eliminate this foreign influence in the educational system since the thrust is to make the educational system very pro-Filipino? And if so, how can it be done? Does it mean the restructuring of the loan such that we shall not proceed anymore with what is remaining to be availed of or would it mean that the Filipinos should now dictate their terms on these educational loans?

MS. ROSARIO BRAID. May I answer that first. Like in any loan, I think the fault lies also in the Filipino counterpart system because we did not identify the needs and the priorities, like in many projects. If we go back to the planning process of how the projects were selected, the approaches and processes involved, we will find out that they were perhaps the product of external consultants defining the problem area with very little inputs from the local counterparts.

So, I think, it is not so much in cutting off the loan entirely but in improving the planning system and the implementation of the technology in order that the local counterparts play a greater role in defining the problem, the ideology of the content, the processes and evaluation needed.

MR. DAVIDE. But is it not a fact that before these loans were secured, areas of application were already defined, feasibility studies already conducted, and it is on the basis, precisely, of these that the loans were granted? In the first place, when the loan was applied for, the World Bank or any other agency responsible for extending the loan, must also have their own ideas as to where to apply the particular loan.

MS. ROSARIO BRAID. Madam President, the question is: From whose perspective was the feasibility study done? I think the problem in the Marcos administration was that we were too eager to get loans and we did not have enough leverage to define clearly our own goals and priorities because we wanted the loans.

MR. DAVIDE. In other words, there will now be a reassessment of these loans. Necessarily, upon the approval of this proposed Article on Human Resources, more particularly on education, would it follow that there must be a suspension of the application of these loans?

MR. GASCON. To my knowledge, at this point in time, there is actually a review being done.

MR. DAVIDE. There is a review being done, but since there will be a new thrust in the educational system upon the approval of the new Constitution embodying this proposed Article on Education, would it also necessarily follow that we have to suspend the application of these loans?

MR. GASCON. I believe that would depend on the decision of the executive and the Congress. However, our intent is that we reorient our educational system.

MR. DAVIDE. What specific proposal under this report of the committee would really mandate Congress to review these loans or to reassess the programs under the loans?

MS. ROSARIO BRAID. We will entertain an amendment that would clearly state this, although the goals of nationalism and relevance in thought could be enough guidelines for the Congress to come up with implementing laws.

MR. DAVIDE. I remember very vividly that when the Philippine government obtained these loans sometime in 1982 or thereafter, or even earlier, before the last of these educational loans amounting to about $100 million was obtained, books were already published by the Ministry of Education, Culture and Sports amounting to several million pesos. As a matter of fact, I made it a subject in the Question Hour in the interim Batasang Pambansa. When these loans were secured, the Ministry of Education, Culture and Sports caused the printing again of new textbooks, abandoning what had earlier been printed amounting to P34 million. And these textbooks earlier published or printed were supposedly only made as supplementary.

So, what will happen now to the new textbooks or to the printed books printed out of the loan of $100 million?

MR. VILLACORTA. As we said, these textbooks will be reviewed; it is not a foregone conclusion that they will be junked.

MR. DAVIDE. In other words, these shall remain as probably supplementary reading materials. The foreign content, the foreign implications and the foreign control of the educational policies would continue because our students would keep on reading these World Bank-financed books.

MR. GASCON. Actually, my opinion there is the sooner we recall these books, the better. But at this point in time, the solution which was done by the Ministry of Education, Culture and Sports was to print a supplementary manual for the teachers to make use of as they explain the use of the books. This is a stop gap measure at this point in time.

I hope, in the near future, we can develop textbooks necessary for our own needs. But the books that I mentioned before which had certain values and are not actually attuned to the needs of the children and our society have not yet been recalled. But I believe there are steps leading to that.

MR. DAVIDE. I hope so.

MR. GASCON. With regard to the provision that the Gentleman is asking that the State be mandated to review the textbook project, I believe Section 2 (b) may be interpreted as such:

> The State shall establish, maintain and support a complete, adequate and integrated system of education relevant to the needs of the people and society.

MR. DAVIDE. Under the 1973 Constitution, by virtue of which these loans were obtained, we also have a complete, adequate and integrated system of education relevant to national developmental goals or almost the same.

MR. GUINGONA. Madam President, I pointed out that in the 1973 Constitution, the focus was on societal needs. But in this committee report, precisely, when we speak of country and people, we are not only talking of societal need of the student but his individual need. Insofar as this is concerned, the Gentleman's observation might have relevance.

MR. DAVIDE. Yes. Under the present proposal of the committee, it would still be societal needs — the need of the people and society.

MR. GUINGONA. Yes, but we are talking now of people as individuals.

MR. DAVIDE. So, this is to make it very clear — the needs of the individual and society.

MR. GASCON. However, if the Gentleman has an amendment to make this much more direct, we would consider such an amendment.

MR. DAVIDE. I will go back to the points raised earlier by Commissioners Tan, Rodrigo and Padilla on private educational institutions, which is paragraph (c) of the proposed Section 2, on page 3. I submitted my own resolution Filipinizing our private educational institutions, abandoning the 60-40 provided for in the 1973 Constitution and making these corporations or associations engaged in private educational institutions wholly owned by Filipinos. But I retained very specifically the exception "other than those established by religious orders, mission boards and charitable organizations" which is now deleted in the proposal. I have no quarrel with the intent, however, I would like to find out because many religious orders are actually maintaining schools under the particular provision of the 1973 Constitution.

MR. VILLACORTA. We have not gathered data on that, but what we know is that the majority of these schools are Filipinized in ownership.

MR. DAVIDE. Does it mean that schools run by religious orders have been Filipinized?

MR. VILLACORTA. Yes.

MR. DAVIDE. On the basis of 60-40, certainly, because that was the requirement under the 1973 Constitution.

MR. VILLACORTA. Whether it is 60-40 or wholly owned, they are Filipinized.

MR. DAVIDE. How many of the schools run by religious orders Filipinized themselves?

MR. VILLACORTA. According to Dr. Adrian Arcelo, all are Filipinized although we have to double check on that.

MR. DAVIDE. To what extent is the Filipinization? Is it 60-40 or totally owned now by Filipino citizens?

MR. VILLACORTA. Maybe we can provide the information this afternoon, Madam President.

MR. DAVIDE. How many of the schools are run by charitable organizations under the 1973 Constitution, which would now be affected by the deletion as proposed?

MR. VILLACORTA. We will also make inquiries into that, Madam President.

MR. DAVIDE. How many schools are run by mission boards which were allowed under the 1973 Constitution and now sought to be unconstitutionalized?

MR. VILLACORTA. Unconstitutionalized?

MR. DAVIDE. In the sense that it will no longer be allowed to operate as such, unless the members of the mission boards would be all Filipino citizens.

MR. VILLACORTA. Our understanding is that they are Filipinized already but as to the more specific question on whether it is 60-40 or wholly owned, we will look into that, Madam President.

MR. DAVIDE. What is the basis of the committee in saying that these schools owned by mission boards are already Filipinized when the committee does not even know the number of schools run by mission boards?

MR. VILLACORTA. It is not necessary to know the exact number of schools owned by mission boards to know that the majority are Filipinized.

MR. DAVIDE. My point is, the answer earlier was that these are now Filipinized. How would we know that these are now Filipinized if we do not know how many schools were actually run by mission boards?

MR. VILLACORTA. We made inquiries, as I said, with the Fund for Assistance to Private Education. We have to ask for more details with respect to the equity structure in the schools.

MR. DAVIDE. In other words, is it now our impression that when the committee recommended the deletion of the exclusion, it really did not have the statistics or the data as to the number of schools run by religious orders, by charitable institutions and by mission boards?

MR. VILLACORTA. That is correct, Madam President.

MR. DAVIDE. And so, how did the committee arrive at a conclusion that this should now be deleted when it did not know the extent of the effects of a deletion of the provision?

MR. VILLACORTA. The main consideration is not the extent of the effect of the provision, but more on the intention that schools in the country be wholly Filipinized so that the content of education will be really directed towards the interest of the Filipino nation.

MR. DAVIDE. Is it the position of the committee that these schools will not be bound by the mandated curriculum and by the cardinal aims of education as also provided in the Constitution?

MR. VILLACORTA. But as we have mentioned, it is not enough to mandate a curriculum. In the final analysis it is the people who own, manage, and who also are the teachers in the schools that will determine how the curricula will be implemented.

MR. DAVIDE. Can it not be that the administration and the control of these schools be left to Filipino citizens as was provided in the 1973 Constitution? In other words, we allow them to continue to operate the schools – I refer to religious orders, mission boards and charitable institutions – but we mandate that the control and administration must be vested exclusively in Filipino citizens. Would not the committee be satisfied with that?

MR. VILLACORTA. With solely the administration but not the ownership?

MR. DAVIDE. Yes, not necessarily the ownership because, insofar as ownership is concerned, that would remain as an exception; but for control and administration, we leave them to Filipino citizens.

MR. VILLACORTA. May I know why the Gentleman is particularly concerned with maintaining the foreign ownership of certain schools?

MR. DAVIDE. First of all, as I said, I submitted a resolution and I agree in full to the total Filipinization of educational institutions except for those run by religious orders because I know for a fact that if we discontinue this practice allowed under the 1973 Constitution, not only will they be phased out immediately, but they will not be given time to recover investments; and, of course, the most deleterious effect would be on the student population of these schools.

MR. VILLACORTA. Does the Gentleman have statistics to support the contention that there will be many missionary schools that will have to be phased out?

MR. DAVIDE. I would ask the same question, and I would repeat my question again. Did the committee take into account the number of schools run by religious orders, mission boards and charitable institutions? And the answer of the committee is that it had not taken that into account. Why should the question now be asked of me when it should have been that before deciding to delete that particular exception, the committee should have taken into account the number of schools that will be affected by that?

MR. VILLACORTA. Madam President, what we said was that we did not have the exact number of religious schools, but we did inquire from the Fund for Assistance to Private Education whether the majority of religious schools have been Filipinized, and the answer was "yes."

MR. DAVIDE. But did the committee find out also to what extent was the Filipinization? Was it not just to satisfy the requirement of 60-40?

MR. VILLACORTA. The interpretation that we had when we were told that the schools were Filipinized was that they were wholly owned, but now that the matter of 60-40 was brought up, as I said, we will make further inquiries about that.

MR. DAVIDE. Yes, Madam President, because it is a fact that upon the supposed ratification of the 1973 Constitution, many of these religious institutions or private educational institutions, especially those run by the Chinese, converted themselves according to the ratio provided for. The provision was basically intended against the Chinese educational institutions. So, while it became Filipinized, it was only to satisfy the maximum requirement for alien participation, which was 40 percent. And so, the information given to the Committee that they had already been Filipinized could only mean that the interest or the foreign equity was reduced to 40 percent but not total. And now, if we provide for the total, these institutions which merely satisfied the requirement of 60-40 will have again to be fully owned by Filipino citizens. I am in favor of that, but of course, we have to preserve the exception provided for in the 1973 Constitution. That is my only point.

I would go to another matter.

MR. VILLACORTA. Just a minute, Madam President, Commissioner Rigos would like to say something.

REV. RIGOS. I just want to say that in the case of schools and colleges organized by Protestant foreign missionaries, especially those that are now in the Association of Christian Schools and Colleges, they are all Filipinized – 100 percent Filipino-owned. But Commissioner Davide is also correct that when the committee discussed this portion of the article, we did not have the statistics on the exact number of schools to be affected by the deletion of that phrase in the 1973 Constitution.

MR. DAVIDE. I will go to another point; it is on page 2, paragraph (c) of Section 1:

> The State shall promote quality education and ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives.

Is it my impression that equal access and opportunity to quality education is mandated to be done by maintaining a system of scholarship grants and other incentives?

MR. VILLACORTA. Yes.

MR. DAVIDE. The language is very clear: "ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives."

MR. VILLACORTA. That is right, Madam President.

MR. DAVIDE. Is this the only way of ensuring equal access and opportunity to education?

MR. VILLACORTA. We are not saying that this is to the exclusion of other measures for attaining equal access to education. However, if the Gentleman has suggestions to make this provision complete, we would be open to the suggestions.

MR. DAVIDE. On the cardinal principles of education, as found in Section 2 (a), the original words, both in the 1973 and 1935 Constitutions, following the word "inculcate," are "love of country." The committee has decided to change "love of country" to "nationalism."

MR. VILLACORTA. That is right.

MR. DAVIDE. May we know why?

MR. VILLACORTA. Madam President, love of country can be taken in its narrow context as simply respecting the symbols of the country. It is a very abstract concept, but through the evolution of our history, particularly contemporary history, the more accepted concept, it seems, is nationalism which is not confined to love of country but love of our people as well. And it is not just love of our people but also faith and confidence in our people.

MR. DAVIDE. If nationalism would also include love of people, love of neighbor, love of fellowmen, why is it that paragraph (a) also includes love of fellowmen?

MR. VILLACORTA. Nationalism would be particularizing on love of the Filipino people, but love of fellowmen provides the universal aspect.

MR. DAVIDE. So, it is practically universal brotherhood of man?

MR. VILLACORTA. That is right, Madam President.

MR. DAVIDE. Is it, therefore, the thinking of the committee that nationalism would be a little broader than love of country?

MR. VILLACORTA. Yes, Madam President.

MR. DAVIDE. But certainly, love of country would necessarily include patriotism.

MR. VILLACORTA. Yes, Madam President.

MR. DAVIDE. But nationalism does not necessarily include patriotism.

MR. VILLACORTA. No.

MR. DAVIDE. And that is why in the qualifications for membership in the Commission one has to distinguish between patriotism and nationalism.

MR. VILLACORTA. I do not think that is the implication in that proclamation which specifies patriotism and nationalism. In the definition of nationalism, patriotism must necessarily be included but it is not the other way around; patriotism does not include nationalism.

If I may explain further, patriotism would be more related to one's commitment to his fatherland and, therefore, the commitment to defend the country and also respect for its symbols, appreciation of its history, wearing of the *barong tagalog*, speaking the national language, singing the national anthem, etc. But nationalism is beyond patriotism. It is a commitment to the interest of the people and, therefore, identifying with the problems, interests, and aspirations of the Filipino people.

MR. DAVIDE. Thank you for the clarification, although I feel that adopting the words used both in the 1935 and 1973 Constitutions; that is, love of country, would give more historical and traditional significance without actually downgrading love of country itself because love of country would include necessarily patriotism and nationalism. On the contrary, nationalism alone may not necessarily include patriotism.

MR. VILLACORTA. We do not agree with the Gentleman on that point. I think we can refer to the manifestation made by Commissioner Sarmiento earlier.

MR. DAVIDE. I have no further question on education, Madam President, and thank you very much for the clarifications.

SUSPENSION OF SESSION

MR. SARMIENTO. Madam President, it is twelve twenty-seven. Before further discussing nationalism, patriotism and education, I move for the suspension of the session until two-thirty this afternoon.

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 12:27 p.m.

RESUMPTION OF SESSION

At 3:01 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. May I respectfully raise a parliamentary question.

This morning, Madam President, I stood up to ask for insertions or amendments to the Journal of the proceedings after which Commissioner Ople called the attention of this body to a previous agreement that amendments shall be sent to the Secretary-General through the President. As a matter of fact, if the Chair will recall, at least on three occasions, I have followed this procedure strictly. But I believe that this consensus or agreement may be subject to at least two interpretations and I would like to respectfully request for clarification.

One interpretation is that we would send our proposed amendments to the Secretary-General through the President because the Secretary-General has no authority to change on her own and because we, as individual Members, do not have the authority to request the Secretary-General to make the necessary amendments. And, therefore, we have to send it to the President so that she can give due authorization. That is one interpretation.

The other interpretation is that we are sending our amendments to the President so that, upon her discretion, it may be subject to review either by the President or through an official designated by her to ascertain that the amendments that we are proposing – that I, for example, am proposing – by the addition or deletion of words, would not substantially change the meaning of what has been said in a previous session. May we please request for clarification?

RULING OF THE CHAIR

THE PRESIDENT. The Chair understood it and this is how it is supposed to be done. Any request for correction of the Journal will, of course, be sent to the Secretariat but it has to pass through me. In other words, it will be referred to me in order to check for the proper corrections made.

MR. GUINGONA. Yes, Madam President.

THE PRESIDENT. So, I hope that will be followed so as to save time by making these corrections during the plenary session.

MR. GUINGONA. Thank you, Madam President.

THE PRESIDENT. Thank you.

MR. RAMA. Madam President, I ask that the chairman of the Steering Committee be recognized.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, in line with the agreement arrived at in the caucus last Wednesday and the various accommodations that have been given by the Committee on National Economy and Patrimony, the consideration of new amendments to the committee report which has been postponed four times is scheduled this afternoon. However, I received a request from Commissioner Suarez, who represent the group wishing to present amendments, for further deferment of the consideration of the amendments until tomorrow morning. As of now, there are two proposed new sections to the Article on National Economy and Patrimony. Commissioner Monsod, in an earlier meeting, was saying that perhaps the body could consider these two proposed new sections this afternoon, after which we could probably recess on this article until tomorrow morning. Commissioner Villacorta, however, said that he would also like to request that the discussion on the Article on Human Resources be continued this afternoon because he wishes that the period of sponsorship and debate be terminated. So that all those who wish to interpellate would be taken care of this afternoon because it seems that the committee is going to have a meeting tonight. Am I correct?

MR. VILLACORTA. Yes, with the amenders.

MR. BENGZON. The Steering Committee would not want to assume this responsibility any longer; therefore, we would want to throw this particular point to the Commission for decision. In the meantime, Commissioner Suarez has requested that he be recognized so that he could further expound on his request.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

Once again, I am forced to stand up and make an appeal to the honorable Commissioners to grant us time until tomorrow morning within which to proceed with the deliberations on the Unfinished Business on the Article on National Economy and Patrimony. I am the first to acknowledge the fact that the members of the committee have been very generous in sitting down with our group because of our mutual efforts to reconcile certain conflicting provisions, which appear now in the approved draft. We have pressed upon them certain points, and we are still threshing out other matters, especially considering that although there was a sort of an understanding that we were supposed to submit our new proposals and amendments by last Friday, we could not really comply. Last Saturday, I was ready in my capacity as collector of the new proposals. According to Commissioner Monsod, I am acting as a post office. I was able to collect only two new proposals. Unfortunately, many of the members of our group are also members of the Committee on Education and they have been so occupied answering the interpellations submitted by the other Members of the Commission. However, since lunchtime today, this Member has been making great efforts to talk to all of the Members of the Commission who would still be interested in submitting new proposals which would be entertained not only by the committee but also the rest of the Members of the Commission.

So, with the kind indulgence of our distinguished colleagues, may we make a final appeal for more time and deferment of the consideration of the Article on National Economy and Patrimony until tomorrow morning, and this is already fixed. We will not ask for greater indulgence on the part of the Members of the Commission.

Thank you, Madam President.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Just to be sure, does tomorrow morning mean that we will then begin considering the Article on National Economy and Patrimony tomorrow morning at nine-thirty?

MR. SUAREZ. That is all right with us, Madam President. We will submit the new proposals. Even tonight we can give copies to the other members of the committee.

MR. BENGZON. With the understanding, Madam President, that the request is to be deferred and that tomorrow morning at nine-thirty we will start considering the Article on National Economy and Patrimony, I submit.

THE PRESIDENT. Is the Chairman of the Steering Committee not submitting the question to the body anymore? If he were to insist on that, I would like to request him to just leave it to the discretion and judgment of the Chair. But if he is withdrawing and he agrees, then there is no need to act on it.

MR. BENGZON. With that understanding, I will not insist on submitting it to the body. With the indulgence of our fellow Commissioners, the Steering Committee would want to submit this to the discretion of the Chair.

THE PRESIDENT. So, on this point, the Chair resolves to postpone the continuation of the consideration of the Article on National Economy and Patrimony until tomorrow morning at nine-thirty; and this afternoon we will continue the deliberation on the committee report of the Committee on Human Resources.

MR. SUAREZ. Thank you, Madam President.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Commissioner Suarez made a manifestation that by tonight he would provide the members of the committee a copy of the revised article. May we request that all the Commissioners be provided with a copy tomorrow morning before the session starts.

THE PRESIDENT. Before tomorrow morning?

MR. SUAREZ. Thank you; we will do that, Madam President, but it is only in connection with the new proposals and this we will undertake to accomplish early tomorrow morning.

THE PRESIDENT. Thank you.

MR. GUINGONA. Thank you, Madam President.

THE PRESIDENT. So, we are ready now, Mr. Floor Leader. Who is our next speaker?

MR. RAMA. May I ask that Commissioner Ople be recognized as the next speaker.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you, Madam President.

I am a latecomer in this debate but I want to congratulate the committee for having turned out an excellent draft on education-related fields. There are, of course, some sections here that probably should be subjected to more interpellations for the sake of clarity. Let me start with Section 1 which, I think, is the flagship section for the article in the sense that it defines the goals of education, science and technology, arts and culture.

I think it was Lord Actone who said that class division in knowledge is the deepest of all class divisions; in the same manner, I suppose, we can confirm from experience that education is the greatest leveler of social and economic inequalities. So, when in the concluding part of Section 1 the committee speaks of expanding the frontiers of justice and freedom, I wonder if they will consider the addition of equality to justice and freedom to emphasize the role of education as a leveler of inequalities. It does pull no one down but it pulls everybody up.

MR. VILLACORTA. Certainly, Madam President, that is a very laudable suggestion.

MR. OPLE. Thank you.

Among the objectives of education is the fostering of national pride and identity, enhancing the quality of life of every Filipino and so on. I think this section will be strengthened if we acknowledge the jugular connection of education with economic and social progress, especially since we are told by experts almost universally that the quality of the population, more than any natural resources, determines the extent to which a nation can develop and grow. So, at the appropriate time, I would like to suggest that the committee allow an amendment that would include the acceleration of social and economic progress as one of the major goals of education.

MR. VILLACORTA. We shall be open to the suggestion, Madam President.

MR. OPLE. Thank you.

I now go to Section 1 (c) which mandates the State to promote quality education and ensure equal access and opportunity to it by maintaining a system of scholarship grants and other incentives. I want to call the attention of the committee to the fact that there is now a study-now, pay-later program in the Ministry of Education, Culture and Sports. Some years ago, I had the privilege of authoring the law that created this program wherein government financial institutions, principally the PNB, the DBP, the Land Bank of the Philippines, the SSS and the GSIS pooled their resources together and came up with something like P65 million to grant loans to deserving underprivileged students in various schools and universities which are payable once they graduate and find jobs. The data, I remember, say that 25,000 poor but deserving students have finished college as a result of the study-now, pay-later program, and I was hoping that such deferred payment schemes with the participation of the financial institutions of the government can be acknowledged as one of the incentives for ensuring equal access to quality education. Will the committee entertain an amendment to that effect at the proper time?

MR. VILLACORTA. Yes, at the proper time, Madam President.

MR. GUINGONA. Madam President, may I add that the bill that the Gentleman had presented benefited quite a number of students. And I wish to congratulate him for his sponsorship. Actually, the committee had thought of these loan programs as part of the incentives but the suggested amendment would be welcome.

MR. OPLE. Of course, right now it is too limited, more limited than what I thought it could be, and I think, since a few months ago the study-now, pay-later scheme had gotten lost in a wider scholarship program of the Ministry of Education, Culture and Sports; and having lost its identity as such, it might be in danger of being set aside now. I want to thank the committee for saying that this amendment can be entertained at the proper time.

May I now call the committee's attention to page 3, Section 2 (c), lines 2 to 11. It has to do with what looks like the nationalization of private educational institutions.

I have two questions concerning this. Let us take the specific example of the University of Santo Tomas which, I understand, is still run by the Dominican Order, consisting of religious orders of foreign citizenship.

Will this type of management be proscribed under this section?

MR. GASCON. At present, the UST is still being run by the Dominicans, but they are Filipino Dominicans. It is Filipinized.

MR. OPLE. I am glad to hear that. So that the UST in this case is no longer a problem in that respect.

MR. GASCON. Yes, Madam President.

MR. OPLE. I do recall from the recent past data from the Bureau of Immigration which said that about 5,000 foreign missionaries have been admitted to the Philippines on prearranged employment. And this employment, in the majority of cases, really pertains to teaching. The reason the Bureau of Immigration had no difficulty approving the applications for prearranged employment was because it was understood that most of them would be teaching in the remote hinterlands of this country where no instruction otherwise will be made available especially to indigenous peoples. And I suppose this also pertains to mission schools in these areas. It is not widely known that the Philippines is still a missionary territory. I do not know if anyone can confirm that. For all purposes, we are still a missionary territory and I suppose that is the reason why about 5,000 foreign missionaries have volunteered to teach, especially in the hinterland regions. As far as I know, they are still there. If they are teaching in mission schools that are owned by certain religious orders and are actually subsidized from contributions from overseas, they will fall under the restrictions of Section 2 (c) or do we want to allow them to continue this service that they are rendering in these areas where otherwise there will be no instruction available, especially for members of tribes and indigenous peoples?

MR. VILLACORTA. As we have mentioned previously, the teaching activities of foreigners will not be restricted, specifically foreign missionaries, because this was the worry of many of our colleagues in the Commission.

As far as ownership and management of these missionary schools are concerned, I think, there would be legal ways by which the ownership could be transferred to Filipino hands. One way is to ask their local counterparts to take over the ownership and management. The other way is to link up with their local churches and/or archdioceses.

As Commissioner Rigos pointed out this morning, all of the mission schools of the Protestants are Filipinized and we are not sure yet about the Catholic sector. We are still making inquiries. But based on what Dr. Arcelo told us, all the foreign-owned schools are the International School, the Asian Institute of Management and Brent School, and they are not missionary schools. Two of them are established primarily for the children of diplomats.

MR. OPLE. With that assurance, I think I am satisfied that whatever missionary services are taking place in education in the hinterland areas will not be disturbed by this section except for certain adjustments that will probably result in a transfer of ownership.

MR. VILLACORTA. Yes, Madam President. If this provision is adopted by the Commission, we can make certain provisions in the Transitory Provisions concerning the grace period that can be given to foreign-owned missionary schools so that they will be given reasonable time to divest their holdings.

MR. OPLE. Very good. I shall now proceed to Section 2 (d), line 12, page 3:

> The State shall not interfere with the right of every citizen to select a profession or courses of study, subject to admission and selection requirements.

Does this also pertain to the NCEE?

MR. VILLACORTA. We are quiet about the NCEE in order to give flexibility to the Ministry of Education, Culture and Sports as well as the Congress to determine the necessary screening examination that will determine which of the high school graduates are qualified to enter the collegiate level. We placed here, however, "subject to admission and selection requirements." The intention is to prevent students or applicants who failed the admission requirements of a certain school or who failed to meet the academic requirements once they are admitted, to insist that they remain in that school.

MR. OPLE. Yes.

MR. GUINGONA. Additionally, this qualification refers to both governmental requirements as well as institutional requirements and would refer not only to the matter of admission, but to promotion and even graduation.

MR. OPLE. My concern, Madam President, is that the NCEE, as it now works out, seems to discriminate systematically against high school graduates in the rural areas in favor of the metropolitan or the urban areas, and the reason, I suppose, is because the general information content of these examinations can be very dominant; and where in urban areas children are routinely exposed to, let us say, electronic media, newspapers and other media of information and communication, then they tend to acquire a special advantage in NCEE examinations relative to their poorer cousins in the countryside where such facilities and amenities may be scarce or even inexistent. Therefore, I would feel more reassured pending the reforms in the NCEE, for equity purposes, if the intent of the committee under this section does not include the NCEE.

MS. ROSARIO BRAID. Madam President, earlier we noted the limitations of the NCEE as being more middle-class oriented in terms of bias. We also noted the intent to adapt tools to the needs of the disadvantaged by including not only verbal but also nonverbal ways of evaluating knowledge and aptitude among the lower classes. The Commissioner is right that at present it is really more elite or middle -class oriented.

MR. GASCON. Exactly. We agree totally with the Commissioner's observation. However, it was the consensus in the committee that although we all agree that there must be a review of the NCEE program, we do not wish to state anything about it categorically. And this is reflected in the record as this has been raised already.

MR. OPLE. That is good enough for me until the NCEE can be reviewed and probably reforms introduced so that people do not get overly penalized for the accident of having to be in nonurban areas.

I will now proceed to Section 4, page 4, lines 14 to 23. This has to do with the State promoting and protecting the status and standards of the teaching profession, together, of course, with academic and nonacademic personnel.

Over the years, I have been both disheartened, saddened and pained by the mass defection of the best and most experienced teachers from teaching to other career pursuits. It is, of course, known to us that a good many are impelled by necessity as well as by choice to go overseas and take up occupations normally beneath the training and profession of teachers. And I think the reason is because the career of teaching has become so unremunerative and uncompetitive with other career choices. In Bulacan, I know just about how many teachers have defected from teaching to become clerks in government agencies in Metropolitan Manila; and a significant number have decided to take up the call of overseas jobs.

There seems to be a talent allocation principle at work in society at any given time. Some of us are old enough to remember those days when teaching attracted the best and the brightest in our country. There are, of course, periods when such a career as law becomes very much a favorite of parents and youth who make the decisions together. There were periods when a military uniform probably commanded such glamor and power that I am told, in the Philippine Military Academy, one could have as many as 50,000 applicants, and only a few hundreds would be admitted.

But what we have seen with our own eyes over the past three decades is how teaching has ceased to attract a fair share of the talent pool of the nation. And we see the best and the brightest almost day by day desert teaching for more remunerative and more fulfilling pursuits. And, therefore, if the key to the quality of education – one of the keys anyway – is that education should have its fair share of the available talents in the land, then will the committee consider at the proper time using a more direct provision here so that the Constitution will prescribe a true priority in the national budget for public school teachers so that we can make teaching more remunerative and more fulfilling, and so that we can insure that education in the future will have its fair share of talented Filipinos who will devote their lives to the future by teaching the young?

MR. VILLACORTA. Commissioner Uka would like to answer, Madam President.

THE PRESIDENT. Commissioner Uka is recognized.

MR. UKA. Madam President, I am with Commissioner Ople in his opinion. I believe that we should make teaching the honorable profession that it used to be many years ago.

I was one of those attracted to the teaching profession 57 years ago because, at that time, the Department of Education was number one in the appropriation act. Today I do not know what number it is. And as mentioned, many of the teachers have already resigned and become just mere domestic helpers in the Middle East. The average salary of teachers is less than one thousand. What can one do with P1,000 nowadays?

So, in those days, one cannot take a course in education unless he passed a very highly competitive examination, and I took that examination. So, forthwith, I was sent to the Philippine Normal College, and I was very happy about it, but as the years rolled by, the teaching profession went down in status, and so, many teachers have been downhearted.

I wonder if the Commissioner could suggest some ways to restore the status and honor of the teaching profession so that it will be a real profession. You and I, of course, realize, as I stated a few days ago, that the progress of a nation really depends upon its teachers.

MR. GUINGONA. Madam President, may I comment? I gladly support the views expressed by Commissioners Ople and Uka. I find it paradoxical that a person who is pointed to as a person in authority and, under the law, in *loco parentis,* is invariably taken for granted and is deprived of his just reward. And the result of this is the exodus that the Commissioner has spoken of, which, in the long run, is detrimental to the welfare of the students.

Our distinguished chairman has mentioned some statistics. May I add that in Southern Mindanao, the average salary of a faculty member is only P788.28 and the highest average is in the National Capital Region which is P1,496.33, which is even lower than the prescribed minimum wage.

MR. OPLE. Yes, Madam President. We are, of course, familiar with heroic efforts made by all administrations since the end of World War II to raise the levels of remuneration for the public school teachers. And it seems that each time they would do this, they ran into a wall, the wall being that one could not increase the salaries of teachers without creating similar and reciprocal demands for all the 1,500,000 employees of the government. And yet, for teachers, it should be somewhat demoralizing that nurses have won wage increases through the budget; the health workers represented by Commissioner Quesada, and remuneration for nurses in the government is fully competitive with the remuneration in the private sector. For teachers, however, this has been a forlorn hope during all these past several decades.

But if the committee agrees that here in Section 4, there is a direct constitutionalization of a mandate for budgetary priority to make teaching more remunerative and more attractive, in connection with the quality of education and the standards of the teaching profession set forth in the first sentence of Section 4, then a President who wants to make some meaningful change in the remuneration for teachers will be able to invoke, precisely, this provision in the Constitution and set them apart from all the rest of the government employees.

MR. UKA. Yes. I think the Davide amendment, together with the amendment of Commissioner Maambong, will greatly help in that.

MR. OPLE. I have to see these amendments. I would associate myself with them very gladly, if they convey this meaning that I am now giving to the committee and to the Commission. Otherwise, I think I would like to present my own proposed amendment.

My last intervention has to do with the language part.

MR. VILLACORTA. We are reserving that for a later time; we are concentrating now on education, if the Commissioner does not mind.

MR. OPLE. I will then wait for my turn during the discussion on the language part.

MR. VILLACORTA. Thank you.

MR. SARMIENTO. Madam President, may I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Madam President.

I suppose the committee will have no objection to inserting in the title, as well as on line 8 of Section 1, the words "AND SPORTS."

MR. VILLACORTA. We will have no objection, Madam President.

MR. PADILLA. I am inviting attention to page 3, Section 2 (c). It was mentioned this morning that the phrase which appeared in the 1973 Constitution regarding the religious schools and the 60 *per centum* of the capital of corporations or associations was deleted.

I have heard from the committee that many of the religious schools have been Filipinized. Does that mean that Filipino citizens are now the owners of the quality schools, like the University of Santo Tomas and Letran of the Dominicans, the Ateneo University of the Jesuits, San Beda of the Benedictines, and the Recolletos and De La Salle University? It seems to me that the word "Filipinized" may not be very accurate in the sense that the heads of these different universities are Filipino priests or Filipino educators. Does that really mean that all these colleges, including the San Jose de Recolletos in Cebu, the San Carlos University in Iloilo and other schools in important cities, have for their owners no longer these religious orders but Filipinos?

MR. VILLACORTA. The information we got was that the owners are Filipinos.

MR. PADILLA. But it cannot be so. Does that mean, for example, that Commissioner Regalado as Dean of the College of Law in San Beda, or Father Bernas as President of the Ateneo University are part owners of their respective schools?

MR. VILLACORTA. Not in that sense, Madam President. No, we are not part owners.

MR. PADILLA. Then, who are really the owners? Is it true, for example, that in La Salle they have organized a nonstock corporation? I doubt very much whether the real ownership has been transferred and is vested in Filipino citizens because I feel that all these schools, universities and colleges of many religious orders, as well as others, are probably Filipino corporations – 60-percent Filipino and 40-percent foreign are not the real owners of the land, the buildings and the equipment of all these schools, colleges and universities. When we say that schools are "Filipinized," we get the wrong impression that all the schools, even Don Bosco, for example, are now controlled and owned by Filipinos. Probably some of the principals, the heads or the teachers are Filipinos but I doubt it very much.

MR. VILLACORTA. Madam President, Commissioner Romulo is the Chairman of the Board of Trustees of De La Salle University and he is more privy to the legal technicality of ownership of one university that was mentioned.

MR. PADILLA. Yes, but I wonder whether Commissioner Romulo owns De La Salle University or Father Bernas owns the Ateneo University.

MR. VILLACORTA. Maybe being lawyers, they would be in a much better position to enlighten us on this matter.

MR. PADILLA. Yes, that is the reason why I am trying to find out whether the word "Filipinized" is the solution to the problem. I believe it is not so. That is the reason I would like to retain the former provisions of the Constitution because they are more actual, more real. Schools form a corporation, and these are called nonstock or sometimes nonprofit. But who are the members of that corporation, and does that corporation have a legal personality? Who is the real owner of the lands, the buildings, the equipment and all that go into a first-class or quality college and university? In other words, when the committee tells us the schools have been Filipinized, it gives us the impression that the schools are now wholly owned by Filipino citizens. Frankly, I doubt very much the reality of such statement which probably is a matter of fiction in law – granting a Filipino corporation the right to own, administer and operate these many religious colleges and universities. It is very easy to say a school has been "Filipinized." I know that the heads or the presidents of these are Filipinos, but does that mean that they own these very valuable educational institutions?

MR. VILLACORTA. Commissioner Tan would like to say something.

SR. TAN. Madam President, may I try to answer? As far as the women orders are concerned, the women orders have a Filipino membership, and usually the Filipino membership is far more than the foreign membership. We organize ourselves into a corporation with the Securities and Exchange Commission. And so the Filipinos own everything. But the very small groups, like the Indonesians, the Spanish or the Japanese who come have no ownership because they have no Filipino counterparts. Is that better?

MR. GASCON. Father Bernas would like to say something.

FR. BERNAS. Madam President, I think Commissioner Padilla has a point. Ateneo, for instance, would have no difficulty with this. La Salle would have no difficulty with this. But I am not sure whether other religious groups will not have difficulty with this. I do not think that it is enough to say: "Well, if they are incapable of holding it, then let their Filipino counterparts take over." If there are no Filipino counterparts, then that is not possible. Or, the answer might be: "Let the archdiocese take over." That is fine if the archdiocese has the money to buy them out, which is not always the case.

So, in answer to this, I think, while some religious groups would have no difficulty satisfying a 100-percent ownership, I believe that others would have serious difficulty.

MR. ROMULO. Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. On behalf of La Salle, I might as well indicate that they have no problems either. The approach in La Salle is that the Philippine Province of Christian Brothers, all of whom are Filipinos, has incorporated into a nonstock, nonprofit corporation. And La Salle, Inc., as it is known, then owns all of the other La Salle schools. So, in fact, all of these schools are owned by the Filipino members of the Philippine Province of Christian Brothers.

MR. PADILLA. That is it. There is probably a Philippine chapter, but the De La Salle Brothers are worldwide, just like the Jesuits, the Dominicans, the Benedictines, the Recolletos, et cetera – they are all widespread not only throughout the nation, the Philippines, but even throughout the world. And by creating a Philippine chapter, I do not know whether in reality, the chapter would have full ownership of a portion of the entire ownership activities of these different religious orders throughout the world.

We mentioned nonstock institutions, and may I now go to page 4, lines 28 to 32, where there seems to be a distinction between a proprietary educational institution and a nonstock institution. Now, if it is a stock institution especially with private Filipinos as educators, the stockholders are limited to 10 to 12 percent by way of dividends so that the school will not become purely for profit because this might give way to the less desirable diploma mills.

What is a nonstock educational institution? Because it is nonstock, the institution is exempt from taxes and duties. On line 25, mention is made of educational foundations and I understand that the Araneta University with which Commissioner Guingona was formerly connected has been turned into a foundation. Sometimes the foundation is intended to be exempt from taxes, primarily to avoid taxes. Why should there be preference for the so-called nonstock over stock educational institutions? Why the distinction? And then the term "nonprofit" is also used. I do not know whether this is alternative or cumulative. If it is cumulative, then it must be both nonstock and nonprofit.

But we must realize that many educational institutions that have turned into foundations do not distribute dividends because they are nonstock, although they realize profits and these profits are utilized as fat salaries, generous allowances, transportation expenses, including travel, representation expenses so that practically nothing remains for the ordinary stockholder. The members of the board of directors are the ones that enjoy the benefits of all these educational activities. I cannot fully subscribe to this distinction – just because they say it is nonstock; they have no stockholder. But they have members and they are supposed to be enjoying more privileges than a stock corporation.

If we discourage stock corporations engaged in education, then who among the Filipinos who are better economically situated can be induced to invest in more educational institutions? I think we should encourage more Filipinos to engage in this very delicate task of education. But the way it is, there is not enough incentives for Filipinos with some resources to invest in educational institutions. Why? If one is a stockholder, he gets 10 percent, at most, out of profits. If he is not a stockholder, it is only the few on top of the institution that get all the benefits. These are matters that should be carefully appreciated. I wonder whether I am talking sense or, in the opinion of the committee, I am talking nonsense.

MR. VILLACORTA. On the contrary, the points that the Gentleman raised are very interesting to us and they shall be given the serious consideration that they deserve.

MR. PADILLA. Sometimes we hear of a Marcos Foundation, and nobody knows what that Marcos Foundation is, except for the fact that its purpose is not to pay taxes.

Personally, I would want all educational institutions to pay their income tax. Maybe, we should not impose customs duties on necessary equipment, such as laboratory equipment or those for all technical or scientific requirements because that will help the quality of education. But once the institution, whether stock or nonstock, has paid its faculty the correct salaries and, I would say, even encourage salaries through proper administration, they are able to invite more students because of their management, as well as their quality of instruction, and they realize profits. Why should there be a difference, especially in the exemption from payment of taxes, particularly the income tax?

MR. GUINGONA. Madam President, in response to Commissioner Tadeo's inquiry, I pointed out that there are occasions when educational foundations, because of the payment of fat salaries, bonuses, allowances to ranking officials including the board of trustees, might even be giving a lesser residual benefit for the benefit of the students than a proprietary school. I gave the example where a nonstock, nonprofit educational institution might spend 30 percent for the salaries, leaving only 70 percent for the benefit of the students. Whereas a proprietary school might have a 10-percent return on investment plus 15 percent on salaries which is a conservative amount in view of the fact that in these proprietary schools, the owners are on top of the situation as far as expenditures are concerned. A total amount of only 25 percent will be removed from the 100 percent which would give 75 percent or a bigger percentage for the benefit of the students.

With regard to what Commissioner Padilla said about nonencouragement of Filipinos to invest, it is not only nonencouragement, but there is also the problem that those who are already in education might want to pull out. As a matter of fact, that is what UE had intended to do, but the Ministry of Education, Culture and Sports intervened. Earlier, UE had a total student population of 60 thousand and that has been reduced to 30 or to 40 thousand. And it is reasonable to conclude that if they have four or five buildings, at least, one building will be vacated. And so now, the school would want to make use of the vacated building for purposes other than education because they do not have enough students. And since this is capital belonging to the owners, they have a right to make use of this. And that is what I am afraid of; if the profit, the return on investment or ROI, or the attraction is gone, owners of schools may decide to pull out and the ones who will suffer are the students.

MR. PADILLA. That is why I cannot understand the less favorite, you might say, attitude towards so-called proprietary schools. I agree that education should not be like a business. But when we want to encourage Filipinos to invest in education and in educational institutions, we cannot encourage, if there be what they call in an absolute term, nonprofit investment for the investing stockholders. That would be contrary to human nature. Of course, when we want to make more profits in agriculture, in industry, in commerce, well and good. But there are some who would prefer to invest part of their surplus capital to help elevate or even disseminate education to our people. But why should we always say "nonprofit," as if we expect to gain only a 10-percent dividend?

MS. ROSARIO BRAID. Madam President, I think the intent or spirit of this provision is to encourage broad-base ownership. We will note that a module is the cooperative module, whereby ownership was based on all the faculty and other nonfaculty members, and other members of the population who are interested in education. An example is the Centro Escolar University which is now a cooperative, rather than an ownership based only on a family or a few members. In other words, it is really spreading the benefits or profits to more rather than to a few. This is what this provision intends to achieve.

MR. PADILLA. The Commissioner mentioned Centro Escolar University, but it pays some reasonable dividends to its stockholders. And that is what I would like to foment rather than to always stress the sacrificial nonstock or nonprofit nature, because then there will be no incentive to invest in good educational institutions. I agree that education should not be for profit; but education should not be nonprofitable also. We envision, for example, faculty members and the members of the management owning and operating the school. But the fact is that these faculty members and these employees cannot. They do not have the capital necessary to own a land and to construct a building for a school. To spread out the stockholdings to the faculty members, to the members of management and even to the public is good. But we cannot do that if it is an exclusive nonstock, nonprofit association. Centro Escolar University, I believe, is a progressive university, and it has attracted many students, especially girls. And they pay reasonable, very low, but reasonable dividends. And that can be an attraction to people investing in private educational institutions.

MR. GUINGONA. Madam President, may I add that I fully support the idea of a cooperatively owned educational institution, but as I pointed out yesterday, the problem is that if we are to expect the faculty members and the nonacademic personnel to take over the cooperatives, from the pragmatic point of view, this is not going to be possible for some time. That is why I was suggesting that perhaps legislation might be enacted in the future, which would provide soft loans to the faculty members and nonacademic personnel, so that if they have an investment of P5,000 or P10,000, they could borrow on very easy terms five times that value so that, together, they might be able to pool enough resources to buy even a small school.

MR. PADILLA. Another point I would like to raise is regarding exemption from taxes on line 32 of page 4. Does the phrase "as may be provided by law" mean that this Article on Education, Science, Technology, Sports, Arts and Culture has to be followed by the Department of Education, Culture and Sports as well as by the Congress without further discretion or latitude to provide for what is necessary in the promotion of public, as well as private education?

MR. VILLACORTA. No, Madam President, this article provides such latitude and there are other sections that incorporate the phrase "provided by law," such as Section 2 (C), Section 2 (F), Section 4 and Section 5 (C). So, throughout the article, we have this qualification that provisions would be detailed by law, or the details of several provisions would be provided by legislation.

MR. PADILLA. Madam President, instead of providing for free education including for the secondary school, why do we not just say that the Congress shall give to education a substantial or the biggest share in the budget? Before, education used to have the biggest share of the national budget; it was only President Marcos who gave the biggest share to the military. This is better than saying that the State shall give free primary, elementary, including secondary education, which we cannot fulfill. I read in the papers yesterday that it would involve P21 billion.

MR. VILLACORTA. Only P10 billion.

MR. PADILLA. Is that for free high school?

MR. VILLACORTA. Yes.

MR. PADILLA. There are many provinces and cities which provide free high school education. If we transfer this responsibility to the State or to the national government, these cities with very few free high schools may feel that it has already become the burden of the State and may not continue to establish and maintain their free high schools anymore.

MR. VILLACORTA. The proposal of the Commissioner that we include the sentence "Congress shall give the biggest share to education" is very much welcome but more as an addition or a supplement to the provision guaranteeing free public education up to the secondary level. And, moreover, we could include in the intendment as we interpret this provision with respect to the State's providing free public education that it should not mean that city governments providing free high school education should not stop from doing so just because of this provision.

MR. PADILLA. But, Madam President, we cannot provide as a duty of the State the giving of free secondary education, especially to the entire nation. We have to first give the public school teachers their just salary or wages by providing or at least mentioning this as free, something that is more than what was provided in the 1935 and 1973 Constitutions – the first one (1935 Constitution) was for free primary education only; the second (1973 Constitution) was for free elementary education; now we are saying free secondary education. We are even saying subsidized tertiary education. But these are all visionary, I believe, considering the present economic resources of the country.

MR. GUINGONA. Madam President, I do not know if this is the perception of the committee, but my own perception is that when we say it is the duty of the State to provide education, we are referring to the State without any particular allusion to either national or local. Therefore, it may be the national or the local or both, that would maintain the schools that will provide education.

MR. SUAREZ. Madam President, may we be recognized to seek clarification?

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

Commissioner Padilla, who was a distinguished Member of the Senate of the Philippines at the time Mr. Marcos declared martial law, mentioned about constitutionalizing in this Article on Education, Science, Technology, Sports, Arts and Culture, the matter of allocating a greater portion of the budget appropriations to be devoted for educational purposes. Madam President, I would like to clear up only two points: Is my understanding or the information we received correct that sometime in 1972 the Education Department received something like 28 percent of the budget, which under the Marcos administration had been reduced only to something like 11 or 12 percent?

MR. PADILLA. I do not know the exact figures, but I said that Congress used to give out of the annual appropriations a bigger percentage to education, but it was only during the time of President Marcos in order to strengthen himself with the military that the greatest share in the budget was shifted, instead of education, to the military.

MR. SUAREZ. Thank you.

In other words, if we reverse the priority from military to education, we might be able to satisfy the proposal presented by the distinguished members of the committee.

MR. PADILLA. No, I do not believe we can.

MR. SUAREZ. Yes, we hope we can.

MR. PADILLA. Madam President, we have to be realistic. We cannot give free secondary education, free high schools throughout the nation – that is a dream; that is a hope. But I have said a few times: Let us not give our people false hopes because when these are not fulfilled, their disillusionment, their disappointments will be greater.

MR. VILLACORTA. Madam President, may I just reply to that. The P10 billion that we cited is just a 10-percent increase in the budget allocated for education. The deputy minister for higher education, Victor Ordoñez, was here this morning and he said he is willing to be quoted that he does not foresee much difficulty, from the point of view of the Ministry of Education, Culture and Sports to provide free public high school education. I think this was reiterated by Education Minister Lourdes Quisumbing. So these are coming from the mouths of the Ministry of Education officials themselves who do not foresee any crisis in terms of providing free public high school education.

MR. UKA. Madam President, may I make a brief comment? I think we have the money. What we should do is to observe priorities. Let us, as I said, restore the Ministry of Education as the premier department because, after all, education is a number one priority in this country. So, it is a matter of restoring it. But if we keep on downgrading the Ministry of Education, Culture and Sports we will never be able to get all we want for education. We should not permit appropriations for other departments to be above the appropriation for education because education is really very important. The progress of a nation depends upon education. The teachers are working very hard and they are so submerged in their work. We even make use of them during election as poll clerks. They do all kinds of work like food production and all that, and many of them, very charming teachers, even forget to marry. It is a good thing I did not forget.

MR. PADILLA. Madam President, I thank Commissioner de los Reyes for giving me a copy of the *Tribune* of September 1, where it says:

> Education Minister Lourdes R. Quisumbing has expressed doubts on the capability of the Aquino administration to finance free education up to high school. Quisumbing apparently backtracking from her call for free education up to the secondary level, said upon arrival from Singapore that her initial stand which had been proposed in

the Constitutional Commission is quite impossible. How can our country finance education up to the secondary level when a richer country like Indonesia could not even afford it?

MR. VILLACORTA. I have not read that news report, but if indeed it is accurate, it is backtracking because the report of *Manila Bulletin* last Saturday, if I am not mistaken, was that Minister Quisumbing was for free high school education.

MR. PADILLA. Maybe she was expressing a desire, a realization of what should be. I also like to extend free high school education, if possible, but she must have realized that it is impractical, if not impossible, at least from the point of view of financial resources.

MR. SUAREZ. Thank you.

May I clear up one more point? I know that Commissioner Padilla would like us to realize this dream that we are all talking about, and he was very kind enough to suggest that probably we should leave it up to Congress to appropriate a greater portion of the budget in order to implement this thinking and this dream.

MR. PADILLA. I was mentioning that as a fact in previous Congresses.

MR. SUAREZ. And being an acknowledged constructionist, does Commissioner Padilla think this can be done appropriately by way of a directive in the Article on Education? If the Gentleman thinks so, I will give my support.

MR. PADILLA. I am not in favor of always mandating Congress but this Commission has been very repetitious with such statements as "the State shall establish and maintain"; "the State shall provide"; "the State shall," and so forth, and so on. I am not in favor of so many provisions like those because we are practically depriving Congress of its discretion and judgment.

MR. SUAREZ. But I take it, in this particular instance, that the Commissioner is willing to sponsor any resolution.

MR. PADILLA. No, I do not want to provide another clause, like "the State shall" or "the Congress shall," but we would want Congress to give to education the biggest share, much higher naturally than the share of the military. But I would prefer to leave that to Congress and not for this Commission to mandate Congress. That is our propensity here. We are always mandating Congress; and not only that, we are even imposing many duties on the State. I am not in favor of provisions like those; besides I have criticized these in a few of my observations.

MR. SUAREZ. Even by way of concretizing the thoughts which the Commissioner expressed to us only a while ago, would he not be amenable to making a proposition which he has envisioned in our Constitution?

MR. PADILLA. I have already answered that. I do not like to say "the State shall" or "the Congress shall."

MR. SUAREZ. Thank you.

MR. PADILLA. There are in this article nice words like "comprehensive," "complete," "adequate," "integrated." Should we not only allow Congress or the President to establish minimum requirements regarding what schools and colleges should be recognized or allowed to operate, and not put maximum ceilings so that we can encourage more schools provided that they comply with certain minimum requirements? I do not see any minimum requirements here, except the optimum requirements.

MS. ROSARIO BRAID. Madam President, let me respond to Commissioner Padilla's first statement about the concept of "comprehensive and integrated." We will note that the term "integrated" was contained in the 1973 Constitution. "Comprehensive" is a term we would like to use because we feel that we should give a mandate to Congress to reexamine the goals, the structures and the ends of education, and we do not think that we could do that by just specifying how many or what kinds of schools should be established, but that we should at least come up with the minimum statements of some desired structures and processes. With the use of the term "comprehensive," we are saying that we do not believe that formal schooling is the only end of education. We believe that other kinds of education are as important; and so this is why the term "comprehensive" is here to mean that the family, or the other nonschool institutions are just as important.

MR. PADILLA. They are all important; there is no question about that. However, the Gentleman mentioned words like "formal," "nonformal," "informal," "indigenous." To the average Filipino, these words are not very clear, not even to me. Why do we not just say, after setting the goals of education, that the schools which will be recognized will have to meet minimum standards or minimum requirements, and that the maximum is open to all, including college, postgraduate, and/or the so-called liberal education? But more important is the giving of instruction to all the people with minimum requirements from both public, as well as private schools, instead of saying "formal," "nonformal," "informal" or "indigenous." I thought we were interested in encouraging one standard of education for all our people.

MS. ROSARIO BRAID. I do not think that is what we wanted. We are trying to show here that education is so important to be uniform. We are suggesting that there are various alternative systems of education; and we are suggesting here that if we just focus on minimum schooling requirements, we are failing the very ends of education which is, that it should be undertaken by other sectors of society and that the school should coordinate with the home, the Church, the mass media, and other community institutions. Therefore, we do not give the impression that all resources of the State should be given to formal schooling. And it is this spirit of our awareness that we should expand the processes and the structures of education to mean that all important sectors of society should carry on the function of education.

MR. PADILLA. There is no question that education first starts in the family; and there is no question that the Church has a great deal of influence on education. But when we are talking of schools, especially public schools, and those private schools engaged in primary, elementary, and high school education, we have to provide, or at least let Congress provide, for minimum requirements to establish and operate such schools.

I am not saying that education is limited to the schools, no. In fact, there must be the relation between the family, the parents, the faculty, the other sectors, including the Church, because that is very important for moral character and spiritual values, rather than these words.

MR. GUINGONA. Madam President, in connection with Commissioner Padilla's inquiry as to the meaning of the word "integration. . ."

MR. PADILLA. No, I am not asking for the meaning.

MR. GUINGONA. What was the Commissioner asking then?

MR. PADILLA. I was saying that we used good words, nice words, like "comprehensive," "complete," "adequate," "integrated," et cetera, but we do not let Congress provide for more facilities for education for Filipinos to invest in stock corporations, but that Congress should provide the minimum requirements for the establishment and maintenance and operation of such schools without giving any limitation to the further expansion of higher education.

Thank you, Madam President.

MS. ROSARIO BRAID. Thank you.

MR. SARMIENTO. Madam President, may I ask that Commissioner Bacani be recognized.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, what I would like to ask the committee, I will just ask them in private consultations, so I waive my chance to ask.

MR. VILLACORTA. Thank you for giving us a respite. *(Laughter)*

SUSPENSION OF SESSION

MR. SARMIENTO. Madam President, on the basis of a popular request that we suspend the session for a few minutes, may I move that we suspend the session to give our Commissioners time for their merienda.

THE PRESIDENT. The session is suspended.

It was 4:35 p.m.

RESUMPTION OF SESSION

At 5:16 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. SARMIENTO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. SARMIENTO. Madam President, may I ask that Commissioner Tadeo be recognized.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Madam President, Section 2 (a), lines 14 and 15 on page 2 reads: "All educational institutions shall inculcate nationalism . . ." Maaari bang malinawan lang ako rito ng komite kung ano ang ibig sabihin ng "nationalism"?

MR. VILLACORTA. Commissioner Tadeo, kanginang umaga ay nilinaw namin na sa nasyonalismo ay napapaloob din dito ang patriotismo. Ang patriotismo ay pagmamahal sa bayang tinubuan ngunit ang nasyonalismo ay nakahihigit sa patriotismo sapagkat dito ay kasama ang pagmamahal at kumpiyansa sa ating mga kababayang Pilipino, kayat ang nasyonalismo ay higit pa sa paggalang sa mga simbulo at sa mga sagisag ng bansa, sapagkat kasama rito ang ating katapatan o commitment sa interes, sa kapakanan at kinabukasan ng ating mga kababayan.

MR. TADEO. Naniniwala ba ang komite na ang nasyonalismo ay dapat tumagos sa ating Saligang Batas?

MR. VILLACORTA. Tumagos?

MR. TADEO. Naniniwala ba ang komite na ang nasyonalismo ay dapat tumagos sa ating political system?

MR. VILLACORTA. Naniniwala ang aming komite, Commissioner Tadeo.

MR. TADEO. Naniniwala ba ang komite na ang nasyonalismo ay dapat tumagos sa ating economic system?

MR. VILLACORTA. Opo, Kagalanggalang na Tadeo.

MR. TADEO. Naniniwala rin ba ang komite na ang nasyonalismo ay dapat tumagos sa ating sining at kultura?

MR. VILLACORTA. Naniniwala ang komite riyan.

MR. TADEO. Sa paniniwala ng magbubukid ang ibig sabihin ng nasyonalismo ay ganito: Pananalig at pagtitiwala sa kakayahan ng Pilipino. Ganoon po ba ang inyong pagkaunawa rin?

MR. VILLACORTA. Isa yan sa mga bahagi ng nasyonalismo.

MR. TADEO. Kung ang ibig sabihin ng nasyonalismo ay pananalig at pagtitiwala sa kakayahan ng mga Pilipino, gusto ko lang basahin ang isang bahagi ng 1973 Constitution tungkol sa wika: "Sakaling magkaroon ng pagtatalo, mangingibabaw ang teksto sa Ingles." (In case of conflict, the English text shall prevail.)

May probisyon ngayon at nagpapasalamat ako sa nagawa ng komite – "Sakaling may pagtatalo, ang teksto sa Pilipino ang mangingibabaw." Dito ngayon masusubok kung talagang tumatagos ang nasyonalismo sa ating Saligang Batas. Ang ibig sabihin ng nasyonalismo ay paniniwala at pananalig mo na makalikha ng isang wika, isang wikang siyentipiko, makabayan, makamasa, hindi elitismo at mapagbuklod. Iyon ang ibig sabihin. Kaya ngayon masusubok natin ang nasyonalismo sa wika pa lamang pagdating natin sa bahagi ng Wika, sapagkat maliwanag dito ang probisyon ng 1973 Constitution. Uulitin kong muli ang probisyon ng 1973 Constitution: "Sakaling magkaroon ng pagtatalo, mangingibabaw ang teksto sa Ingles." Pagkatapos ang probisyon ngayon: "Sakaling may pagtatalo, ang teksto sa Pilipino ang mangingibabaw." Sinasabi natin na ang nasyonalismo ay dapat tumagos sa ating Saligang Batas at dapat itong tumagos sa ating wika. Mayroon kang paniniwala, pananalig na makapagpaunlad, makapagpausbong ng isang wikang Pilipino. Ngayon, liliwanagin ko pa. Ang ibig ding sabihin kung ang nasyonalismo'y tumatagos sa ating Saligang Batas, makikita natin ito sa panig ng ekonomiya. Hindi ka makakakita ng 60-40 na equity. Ang pagbungkal ng likas na yaman ay hindi nagbibigay ng 60-40 na pagbabahaginan sa mga dayuhan, pati na sa public utilities. Kung sinasabi nating ang nasyonalismo'y tumatagos sa Saligang Batas, ibig ko lamang tanungin ang komite kung hanggang sa national economy at patrimony lamang tumatagos ang nasyonalismo.

REV. RIGOS. Madam President, bago natin iwan ang paksa ng "language," maaari po bang magsalita nang kaunti?

Commissioner Tadeo, hindi po kami naniniwala na kapag ang isang tao ay nagsasalita sa wikang Pilipino, he is more Filipino than a person who speaks English.

Iyon po lamang ang nais kong sabihin tungkol dito. Sa amin pong pagkakilala, nationalism is much beyond our ability to speak the national language. Kaya huwag nating isiping kapag Pilipino na ang ating salita, tayo ay nationalist.

MR. TADEO. Paglilinaw lamang, Madam President. Kapag sinabi nating ang nasyonalismo'y tumatagos, gayun din sa political system. Maraming pagkakataong maraming dayuhan ang nagiging bisita ng mga magbubukid. Sinabi ng mga dayuhan sa akin:

> "Jimmy, hindi namin makita ang Filipino identity. Ang inyong political system ay isinunod sa American model. Ang inyong economic system ay free trade. Kapag manood ka ng telebisyon o kaya manood ka ng pelikula, hindi mo makita ang Pilipino. Wala siyang identity. Maaari ba, Jimmy, isalarawan mo kung anong ibig sabihin ng Filipino identity"?

Para sa amin, kapag ang nasyonalismo ay tumatagos sa ating political system, makikita ng iba ang isang political system na angkop sa pangangailangan ng Pilipino. Kapag tiningnan nila ang ating economic system, nakikita nila ang economic protectionism, ang Filipinization at national industrialization. Kapag tiningnan nila ang ating kultura, kamukha ng bayanihan, iisipin nila kung gaano kaganda ang bayanihan upang makita nila ang Filipino identity. Kapag pinanood natin ang mga sayaw ng Bayanihan Dance Troupe na pinapalakpakan sa buong mundo, kitang-kita ba ninyo ang inyong sarili? Kapag nakikita natin ang tinikling, kitang-kita natin sa ating mga sayaw ang ating sarili. Ang ibig bang sabihin ng tumatagos ang nasyonalismo ay kapag tiningnan natin ang ating political system, kitang-kita natin ang political system na angkop sa Pilipino, ang economic system na tumatagos sa kanyang pangangailangan, sining at kultura?

Pagkatapos may isa pa silang tanong. Kung ang ibig sabihin daw ng nasyonalismo'y pagtitiwala at pananalig sa kakayahan ng Pilipino, bakit naririto pa ang U.S. military bases? Ang ibig nilang sabihin, sa kabila ng mayroon tayong tatlong daang libong kawal, wala pa rin tayong paniniwala at pananalig na kaya 'nating pangalagaan ang seguridad laban sa external aggression.

MR. VILLACORTA. Tinatanong ba ninyo, Commissioner Tadeo?

MR. TADEO. Binibigyan ko lamang ng diin sa komite na ang ibig sabihin ng nasyonalismo ay faith in the Filipinos – ang ibig sabihin ay pananalig at pagtitiwala sa kakayahan ng Pilipino na magpakadakila. Iyon po ba ang ibig din ninyong sabihin?

MR. VILLACORTA. Iyan ang ibig sabihin ng nasyonalismo.

MR. TADEO. Salamat po.

MR. GASCON. Madam President, ang mga tanong ni Ginoong Tadeo ay nakatuon na ngayon sa ating wika. Nais ko lamang tanungin sa ating Floor Leader kung mayroon pa bang mga tanong patungkol sa edukasyon. Kung wala ay tumuloy na tayo sa pangalawang bahagi ng ating artikulo – Wika.

MR. TADEO. Madam President, binibigyan ko lamang ng diin ang ibig sabihin ng nasyonalismo sa edukasyon – ang pananalig at pagtitiwala sa kakayahan ng Pilipino, sapagkat mahalagang mapalagay sa Journal na ang ibig sabihin natin ng nationalism ay faith in the Filipinos.

MR. GASCON. Totoo po iyan at naibahagi na rin iyan ni Commissioner Sarmiento kanginang umaga. Subalit bago natin talakayin ang Wika, nais ko lamang tugunan ang mga ilang impresyon na naibahagi kangina. Ang una ay tungkol sa tanong kung kakayanin ba ng pamahalaan na magbigay ng libreng edukasyon para sa lahat, hanggang sa secondarya. Nasa paniniwala ng komite na kakayanin ng pamahalaang magbigay ng libreng edukasyon. The State can provide free education. We feel that, first, it is a matter of prioritization; and to reprioritize from the misprioritization which occurred during the Marcos regime.

To highlight this further, let us look at certain figures. A bullet costs P5. One bullet would equal one notebook and one pencil. In the 30-minute encounter, thousands of bullets are used up. So first, as far as notebooks and pencils are concerned, if we can allocate more funds towards producing textbooks, notebooks and pencils for our students instead of bullets, perhaps we will not have a problem. One V-150, armored personnel carrier (APC), the type we all saw at EDSA last February and which costs P60 million would be equivalent to the cost of running 12 bureaus, agencies and institutes under the Ministry of Education, Culture and Sports for one year – this is just one APC. One F-5E fighter which costs $5 million is equivalent to the cost of running four state colleges and universities in Metro Manila with a population of three to five thousand, or seven state colleges and universities in Western Visayas, or seven state colleges and universities in Mindanao for one year. That is just one airplane which could service almost 50,000 students in one year. One Sikorsky helicopter which we recently bought – I believe we bought eight – costs about $10 million or the cost of running eight state colleges and universities in Central Luzon for one year. So, the question of whether or not our government can afford education is very clear. The issue is reprioritization.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. I wish to remind the committee that we cannot put a price tag on national defense and security.

Thank you, Madam President.

MR. GASCON. Just as much as we cannot put a price tag on education.

MR. SARMIENTO. Madam President, may I ask that Commissioner Aquino be recognized as the last interpellator on Education.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I was observing the drift of the discussion and the interpellation on the Article on Education and I think that we are sorely missing the aspect of economics in education. Economics is at the crux of the national educational policy. In fact, it is incumbent upon us to study the underpinning importance of economics and economic development in the national educational policy of the country. As it stands now, the focus and the thrust of the national educational policy is to promote and develop vocational and technical training. I do not personally oppose this kind of a thrust. What I deplore is when we develop vocational and technical training to be able to condition a docile labor force that will accommodate the needs of multinational profits.

As early as 1961, the IMF-World Bank in the education sector of its report, came out with the study that the reason for the difficulty of prospects of multinational investment in the country is the lack of qualified manpower. After this study, the IMF-World Bank saw to it that education is a priority in its agenda in the Third World countries. Actually, there is a hidden agenda to this. The long range perspective is to develop a new and captive generation of docile manpower for multinational concerns, and that the national educational policy should be aligned, steered and stimulated in the direction of creating good investment prospects for investments. This is the kind of cultural imperialism that has permeated the system of national education and this, I think, is the proper thrust and concern of the Article on Education. For example, it is not surprising for us now to hear a high school student talk of the blessings of our colonial conquest. It is as if we would have remained a primitive Filipino people without the colonization of the Americans, and that we would not have availed of the benefits and joys of television or the ecstasy of Coca-Cola without colonial conquest, as if colonial conquest were a benevolent gesture.

If we want to be absurd about it, colonial mentality or being very trustful of colonial masters can be very useful; and if we work according to this drift, then we can say that multinational investment may do the country ultimate good and ultimate benefit. But, of course, we have settled that agenda already in the

debates on the national economy and patrimony. However, I have always believed in the proposition that education is the handmaiden of economic policy, and this is one thing that we cannot afford to ignore.

On the matter of academic freedom, academic freedom becomes real only when we are able to entrust the teachers as the agents of social change with enough confidence and skills to be able to redirect cultural and value formation. This may be in the nature of some kind of a fight between the Davids and the Goliaths, but as a prominent Chinese philosopher said, "When today the locusts are fighting with the elephants, tomorrow the elephants may be disemboweled."

The point I am trying to drive at is,we should underscore the fact that education is not just geared towards self-development or the promotion of national identity, but that it can be used effectively to advance strategic economic interest. And, unfortunately, I think the committee has missed on that.

MS. ROSARIO BRAID. Madam President, I think the concerns of Commissioner Aquino have been discussed by the committee. There are studies, like the Philippine Normal College studies, which criticized the nonformal and even the vocational education in the past as having catered principally to multinationals. And that if we do, for instance, respond to the Ranis Report, as I mentioned earlier this morning, which is demand-oriented and which caters to the need of entrepreneurs who will create jobs, rather than be job-seekers in multinational agencies, then perhaps this is the direction to which vocational education should address itself to. We are quite aware of the Commissioner's concerns because we do know that many of these vocational courses were tailored to dressmaking, cosmetics, when there are not enough people who will go into these professions because the needs in the community are more for creating, for coming up with handicrafts and small-scale industry, rather than dressmaking or cosmetology. So we are aware of that.

This is why we underscored creative and critical thinking in order that we are ensured that we understand the economics of education. As we have mentioned earlier, we should ensure that schools do not create an inequality where the reality now is for those children of white-collar parents receiving six times more subsidy than children of farmers.

So these are the inequalities in education. We hope that by moving into new structures, by moving into more demand-oriented vocational education, we move away from satisfying the needs of multinationals, helping create more disparities where there are already disparities in terms of the products of the educational system, especially from schools charging high tuition fees, which tend to increase the inequality in society.

So, if the Commissioner could give us additional provisions that will strengthen our provisions to this effect . . .

MS. AQUINO. I had to raise that point because I want us to be conscious of the sophisticated subtleties of economic imperialism that capture the mind and the thought processes of the young and impressionable minds; of economic imperialism that enters through the backdoor through IMF-sponsored textbooks, through IMF-sponsored scholarships and through IMF-sponsored programs. The point I am driving at is that, when we spell out an educational priority program, it is not as if we are unilaterally dictating our terms here. We have to grapple with a very formidable adversary, and that is the interest of extroverted global trade.

MS. ROSARIO BRAID. I think the problem really is a holdover, all because we have to admit that the planners, the implementors of the educational system are themselves a product of neocolonial education. But to be able to accept and grapple with that fact and to get away from this orientation and to move away to a different orientation is, perhaps, a concern which should be done by the legislature and the Ministry of Education, Culture and Sports. But it is enough that we mandate it. It should be nationalist; it should be creative and critical in order that we can move away from all these ills that were mentioned, which the committee has acknowledged in terms of their evaluation of the educational system.

MS. AQUINO. Thank you.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. This is on behalf of the committee and I am reacting to the remarks of Commissioner Aquino.

I think the committee is aware of the intimate relationship between education, on the one hand, and political and economic processes, on the other. In our sponsorship speeches, we did point to this extremely intimate relationship, and we feel that in any kind of state society, the educational system is reduced to nothing more than a reproducing agent of the relationship of inequity and domination. In one of the papers that were cited by Commissioner Rosario Braid, she pointed out that in the Philippine case, education has indeed contributed to this production of unequal relations. It is for this reason that we provided for a number of proposals in language, in science and technology in particular, as well as in the arts and culture.

But we would like to find out whether Commissioner Aquino has already a number of proposals that would hopefully strengthen these provisions which seek to underscore the need for an educational system that criticizes but also precipitates society in the direction of a self-reliant and truly sovereign nation.

Would Commissioner Aquino have proposals right now which could be submitted to the committee?

MS. AQUINO. No, I just wanted to underscore the need for focus because I went through the provisions as recommended by the committee. We cannot, of course, overemphasize the need for the values of nationalism, the values of patriotism, self-independence, but I think we have overlooked the need for knowledge. And any meaningful education is the one that teaches how to learn.

The fact is the philosophy behind education is not to keep children in school, but to prepare them to leave school.

MR. GASCON. Madam President, we totally agree with the manifestations of the Commissioner and, in fact, we feel that the educational system has a major role to play in as far as becoming more relevant to the Filipino people and to the various national interests and goals of our society, our government, and our socioeconomic life. However, we would like to request if Commissioner Aquino could present some concrete amendments. For example, when we speak of learning or knowledge, Section 2 (a) speaks also of critical and creative thinking.

MS. AQUINO. Yes, but with due respect to the committee, it impresses me like a *colatilla* – as if we are saying: "By the way, we should also impart knowledge."

MR. BENNAGEN. Madam President, one little note before I sit down.

I think the points raised by Commissioner Aquino are indeed very valid, and it looks as if the article as formulated, failed to emphasize these points. For example, in relation to the schooling movement, we thought that Section 1 (d) is partly a response to that in the sense that we do not simply leave to the school as a formal school system the whole task of reforming or reshaping society. It allows for other educational systems full play to counteract the necessarily reproductive function of formal schooling because we are aware that formal schooling merely codifies that which already exist in social relations.

MS. ROSARIO BRAID. Yes.

MR. BENNAGEN. Perhaps, the committee could look into strengthening further these provisions which allow a greater variety of learning systems.

MS. ROSARIO BRAID. Madam President, we had about three provisions on these but for brevity's sake, we shortened them to one: the concept of the schooling – nonformal education and self learning – independent study systems which have been discussed at length, but which we have to shorten because of the necessity of focusing on the present structures and restructuring.

MR. BENNAGEN. Yes.

MS. ROSARIO BRAID. There has been a lot of criticism on coming up with future systems. Actually, if we had our way, we could have really moved away from the present system and move into a radical system. But it is the fact that the committee feels that we have to attend to the structuring of the present system.

MR. BENNAGEN. I am sure that the members of the committee have all these in mind, but based on the remarks of Commissioner Tadeo earlier and the remarks of Commissioner Aquino, it would seem now that as formulated, the article failed to underscore these intentions.

Thank you, Madam President.

MR. GASCON. We will consider some amendments in that regard.

Commissioner Uka would like to give some remarks.

THE PRESIDENT. Commissioner Uka is recognized.

MR. UKA. Madam President, I fully agree with the observations of Commissioners Aquino, Tadeo and Bennagen because education really consists of learning, and learning is defined as the acquisition of knowledge, habits, abilities and attitudes through experience.

Thank you.

MR. SARMIENTO. Madam President, before we adjourn and proceed to a caucus, may I move that we tackle Language after Education. We have only three interpellators for this Section on Language.

THE PRESIDENT. Is there a need for a sponsorship speech to explain the rationale of Section 1, so that for the next session we can be prepared for the interpellation?

MR. VILLACORTA. There is no need for sponsorship.

MR. BENNAGEN. Madam President, there is no need for a sponsorship speech?

MR. VILLACORTA. Madam President, we can go ahead with the interpellation.

THE PRESIDENT. So, what is the pleasure of the Acting Floor Leader?

MR. SARMIENTO. We have only three interpellators, Madam President.

THE PRESIDENT. This is on Language. What does the committee say?

MR. VILLACORTA. We accept that suggestion, Madam President.

THE PRESIDENT. Please call on the first speaker.

MR. SARMIENTO. May I ask that Commissioner Tingson be recognized.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Madam President, I will try to be as brief as I can.

First, I should like to ask a question regarding line 9, under Language, which reads: "The national language shall be further developed on the basis of Philippine and other languages." To what particular language or dialect does the word "Philippine" refer to?

MR. VILLACORTA. The chairman of the Subcommittee on National Language is Commissioner Rigos and he will answer that question.

REV. RIGOS. We have in mind the different dialects and languages of the Filipinos when we say "Philippine languages."

MR. TINGSON. I see. The subcommittee did not have any particular language in mind?

REV. RIGOS. Nothing in particular.

MR. TINGSON. I am very glad to hear that because those of us who are not Tagalogs believe that we have just as many beautiful "malambing" words which need to be incorporated into our *lingua franca* – for example, the word "Inday" which means sweetheart, my love, my sunshine, my honey, my darling, all rolled into one. That should be incorporated in our national language.

REV. RIGOS. The Gentleman is right. In fact, the word "Inday" is very popular now in Metro Manila.

MR. TINGSON. That is what I noticed, and the Ilonggo dialect is not too far behind Tagalog. For instance, the word "bana" refers to husband, and the word "asawa" refers to wife. But we notice that in Tagalog, we only use "asawa" for both husband and wife. So, these points truly justify the recommendation of the committee that our *lingua franca* should be developed on the basis of Philippine and other languages and I think this would be more acceptable. For example, in the Indonesian Republic, they were able to develop Bahasa Indonesia within one generation, literally.

But I am bothered about the Philippines which is not well-known to many people around the world. One time, I sent a letter to my wife in the Philippines from Larnaka, Cyprus, and the postmaster of Larnaka, believe it or not, did not want to believe that there was a country known as the Philippines. When I was in Ohio, an American lady approached me and asked, "Excuse me, but which part of the Philippines is Cuba?" That may sound almost ridiculous but our country is not too well-known and yet, I have an air-letter form in my possession, but it does not have the word "Philippines" at all, instead it contains the word "Pilipinas." So, if the average American or European does not even know where the Philippines is, how will the world know that "Pilipinas" is Philippines? It is spelled with a "P," but sometimes we write it with an "F," this is why our tourists and our visitors are confused.

Could anybody in the committee please tell me if our Bureau of Posts was authorized to change the official name Philippines to "Pilipinas"?

MR. VILLACORTA. Madam President, "Pilipinas" is also an official name. If we may remind the body, the stamps of the Spanish-speaking countries have the names of their countries in Spanish. For example, the stamps of Spain say "España," not Spain.

REV. RIGOS. And the fact that Commissioner Tingson received that letter indicates that the postmaster knew where to send it.

MR. TINGSON. No, this was an air letter, which we were supposed to send outside of the Philippines. I am bothered because I am not aware of any official act by the Congress mandating that our country could be called officially by any other name except "Philippines," so I think the committee should look into that.

MR. GASCON. The Pilipino translation of Philippines is "Pilipinas."

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Let me express my appreciation for the remarks of Commissioner Tingson, because these are arguments for deciding that a national language is a kind of national symbol. But in the proposal, we mean Filipino, not merely as a national symbol, not merely as an instrument for national identity and national unification, but also as an instrument for national growth and development. In due time, we will try to explain the connection of Filipino as a language with the efforts in the development in science and technology and even in trade and commerce. We feel that it is time we decide as a nation, the way Indonesia and Malaysia decided in their own due time that they should have a Bahasa Indonesia and Bahasa Malaysia.

MR. GASCON. On the query of Commissioner Tingson whether there was any official act of changing the name Philippines to "Pilipinas," Commissioner Azcuna told me that the 1973 Constitution had a Filipino translation of Republic of the Philippines which was promulgated, and that is "Republika ng Pilipinas." So it had been officially promulgated; therefore, it does not need any congressional act.

MR. TINGSON. What bothers me, Madam President, is that of Americans and Europeans who do not know our language. We are calling our country a name which is only known to us here in the Philippines.

MR. GASCON. I think that is our prerogative as a sovereign nation. Besides, after the people's power revolution I do not think there is one single country in the world that does not know where the Philippines is.

MR. TINGSON. I agree with the Commissioner and we are all proud about that. In the 1971 Constitutional Convention where I was a member, we suggested, among other things, that we could rename the Philippines. However, after deciding it, there were no further changes. Does the committee also consider this article?

MR. GASCON. Madam President, that question will be considered in the General Provisions. This article is only on language. The changing of the name of the country is under the Article on General Provisions chaired by Commissioner Rosario Braid.

REV. RIGOS. Would Commissioner Tingson entertain one very short story about the Philippines, when the Philippine issue was being discussed by the United States Congress at the turn of the century? Here it goes: During lunch break, two congressmen happened to be seated beside a chaplain and they asked him where the Philippines was. They did not know where the Philippines was. And the chaplain, who probably was not a Baptist like Commissioner Tingson, said: "Well, I do not know exactly where the Philippines is, but I remember in the New Testament the Apostle Paul had a letter to the people of the Philippines."

MR. TINGSON. Madam President, my wife and I were in Philadelphia, and a beautiful young American excitedly told me and my wife that she had just come from her honeymoon and that she spent it in beautiful, tropical Philippines. I was a little bit suspicious, I did not want to believe her, although I was honored with the thought. So I insisted to ask: "Where did you spend your honeymoon with your husband?" "Oh," she said, "out there at Waikiki Beach."

But anyway, Madam President, I am glad that our country is better known now.

One more question, Madam President, and I shall be through. On page 15, lines 18 and 19 state:

> The Constitution shall be promulgated in Filipino and English and shall be translated into the regional languages.

Madam President, I do not speak Spanish although we studied it, but I like the language. However, Spanish is being sidetracked by us, almost insulted to the extent that we want to just abolish it altogether. Cannot the committee, at least, entertain an amendment to include the translation of our work in Spanish, because copies of this will inevitably find their way to the libraries in Spain and Latin American countries? They would want to read it in Spanish. And besides, Madam President, many of our histories are written in Spanish – *El Filibusterismo* and *Noli Me Tangere* are written in Spanish.

With the help of the President and my colleague here who speaks good Spanish, I tried to write something and we improved on it.

Señora Presidenta, segun nuestro compañero, Honorable Francisco Rodrigo, tenemos que hablar, tenemos que leer y tenemos que escribir mas en Espanol en nuestro pais para tener mas practica. Se dice Señora Presidenta: "La practica es la madre de la ciencia." Todavia, Señora Presidenta, hay algunas personas entre nosotros aqui en Filipinas que no saben Ingles mas que Español. Entonces, compañeros, hay necesidad de publicar tambien nuestra Constitucion en este lenguaje que ocupa segundo lugar en el mundo.

Muchas gracias, Señora Presidenta.*

THE PRESIDENT. Que dice el Señor Azcuna?*

MR. AZCUNA. Would the Commissioner please translate that.

MR. TINGSON. Puedo tambien pero corto nada mas. Pero, Señora Presidenta, es claro que tenemos que publicar este trabajo en Español tambien.

MR. GASCON. Maraming salamat po sa inyong mungkahi.

MR. TINGSON. But levity aside, Madam President, I would like to present an amendment on line 19 to read: "The Constitution shall be promulgated in Filipino, English and SPANISH and shall be translated into the regional languages." Let us be thankful to Spain for teaching us Spanish. Let us be grateful to America for teaching us English. We may speak bamboo English but it is still English. Let us thank all these countries that have been good to us. I would like the body to know that I do not like the idea of our not remembering sometimes those who have showered blessings upon us.

MR. VILLACORTA. Will the Honorable Tingson yield to some questions? Does he know the reason why in spite of almost 400 years of colonization under Spain, we still do not speak Spanish?

MR. TINGSON. Porque tenemos que hablar mas siempre en Español para tener practica. That is the trouble. We studied Spanish but we do not speak it.

MR. VILLACORTA. No, Madam President, my question is: In Latin American countries, those that were under Spain speak Spanish. How come we do not speak Spanish now? Is it because we are so dumb that we could not learn Spanish?

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*See Appendix for translation

MR. TINGSON. Is it because we are lazy to learn two languages, English and Spanish?

MR. VILLACORTA. No, the reason, Madam President, and this is historically proven, is that the Spaniards did not want us to learn Spanish during their time. And here we are, the Spaniards are gone and we want to learn Spanish and we want to enshrine it in our Constitution; whereas, when they were here, they themselves did not want us to learn Spanish. The reason, Madam President, and again it is in the records and even in the novels of Dr. Jose Rizal, is that the Spaniards felt we were too inferior than the Indians of Latin America to learn the language, la lengua de los angeles. Does the Commissioner know what the Spaniards call our language? It is lengua de los caballos, language of horses. I am not trying to muckrake here and dig into the bitter past of Filipinos. The point that I am trying to put across is that we are already an independent country. The Spanish period is way back in the past and to try to redeem the so-called glory of our Spanish past is, I think, unnecessary especially because, as I had pointed out, when the Spaniards were here, they did not want us to learn their language, and why should we try to care for their language at this point in time?

MR. TINGSON. We are the loser, Madam President, if we refuse to learn a language which is second in the world today.

MR. GASCON. Madam President, we would consider any amendment later on, because we realize that Spanish is a beautiful language. However, first and foremost we have our own language. We have our own identity and we should encourage this. This speaks of our own language. Madam President, permit me to make a reaction to the Commissioner's proposal which is: "The Constitution shall be promulgated in Filipino, English and SPANISH." I feel that perhaps later on there will be some translations in Spanish which could be sent abroad. So I do not believe that the Constitution should be promulgated in Spanish. In fact, we should even give priority to its being written in the regional languages prior to its being written in Spanish. This is the Constitution of our people.

MR. TINGSON. Madam President, I would settle for translating it also into Spanish.

MR. GASCON. That is right. But we should again give greater priority to its translation into the regional languages prior to its translation into Spanish because more people would benefit from its being translated into the regional languages than into Spanish.

MR. TINGSON. But the Commissioner does not deny the fact that Dr. Jose Rizal, our national hero, spoke and wrote his novels in Spanish.

MR. GASCON. Not at all, Madam President.

MR. TINGSON. May I present an amendment to that effect later on, Madam President?

MR. GASCON. Yes, the Commissioner may during the period of amendments.

MR. TINGSON. Thank you very much.

MR. BENNAGEN. Madam President, I just would like to add that when we speak of Filipino and English as official languages and of promulgating the Constitution in Filipino and English, we do not preclude the other languages as courses to be taught in schools. The students are given the freedom to choose. And, also, the other languages can be taught via the literature of the other countries. I wish to inform the honorable Commissioner Tingson that this is already being done in a number of schools particularly at the University of the Philippines where the literature of other countries is taught in the proper languages, not through translations.

So when we speak of Filipinizing ourselves, our consciousness, we speak of incorporating also other foreign influences which we feel are relevant to the overall thrust of growing up as a nation. I think we pointed out earlier in our sponsorship speeches that when we speak of Filipinizing ourselves, our language in particular, we are not throwing away all other foreign influences. We are saying that we will now be more critical in terms of selecting those influences that will support our struggle for self-determination as a nation.

THE PRESIDENT. Commissioner Padilla is recognized. Is it also in Spanish?

MR. PADILLA. Si, Señora, lenguaje de Castellana, el Castellano o el Español. Yo no creo que durante la administracion Española España no ha querido enseñar el lenguaje Castellano. De hecho nuestros heroes nacionales empesando con el Dr. Jose Rizal, escribio en Español no solamente sus dos novelas inmortales, el *Noli Me Tangere y El Filibusterismo,* sino que ha escrito versos que el mundo Español admite es superior a los escritos de muchos Españoles y Mexicanos. El *Mi Ultimo Adios, Mi Retiro* y otros versos, son excelentes mucho mejor, mejores que los escritos por los Españoles mismos. Y no solamente Dr. Rizal, todos sus compañeros en el esfuerzo de mejorar la situacion Filipina bajo la colonizacion de. España, Marcelo H. del Pilar, Emilio Jacinto, y otros, y despues de ellos hay muchos Filipinos que dominaban el lenguaje Español. Por ejemplo, Don Claro M. Recto y otros de indole aprendieron el Castellano y dominaron ese lenguaje y tenemos que realizar que el Español es el idioma segundo solamante el Ingles en el mundo porque tenemos no solamente America que llaman que con la excepcion de Brazil que hable Portugues, todos hablan el Español.

No es verdad que los Filipinos no podian aprender el lenguaje Español. Mis padres hablaban el Español, yo hablaba el Español en la familia, pero desgraciadamente por la influencia Americana y otras influencias extran-

jeras, muchos de mis hijos ya no hablan el Español. Perc el no hablar el Español no es una virtud, me parece que es una desgracia del pueblo Filipino, y por eso que el immortal poeta y heroe Jose Rizal, siempre decia en su El Filibusterismo que lo que necesitaba el pueblo Filipino era mas educacion porque solamente por medio de la educacion y con eso los idiomas no solamente Filipino o Tagalog, sino tambien el Español y ahora el Ingles son muy importantes para el progreso del pueblo Filipino.

Es una desgracia digo, que la generacion presente y la generacion futura no pueda hablar el lenguaje Español. Pero yo creo que debemos cultivar este lenguaje. A veces hablamos de foreign language, Aleman o Frances, o Italiano, esos no tienen ninguna comparacion con el lenguaje Español. Hemos tenido a España por mas de tres o cuatro siglos y es una desvantaja el no haber tenido el deseo y el interes de preservar, de conservar este idioma muy elegante de Madre España.

Como podemos nosotros, por ejemplo, sentir los sentimientos de nuestro heroe nacional especialmente en sus versos, si solamente tenemos que recurrir a translacion, traducciones en vez de leer el original? Mi padre siempre me pedia que ponga de memoria los versos del Dr. Rizal, y muchas veces me imponia la obligacion de recitar estos versos ante el y muy bonitos, muy hermosos, mejores que los que han hecho los Españoles y los Mexicanos.

Muchas gracias.*

MR. VILLACORTA. Señor Comisionado, solamente necesita usted leer los libros de los historiadores y tambien el capitulo en El' Filibusterismo titulado, *Las Dificultades De Un Maestro* para saber la verdad de que los Españoles no querian enseñarnos la lengua Castellana.

Y, Señor Comisionado Padilla, quisiera preguntarle a usted: Cuantas personas aqui le entendia a usted cuando usted hablaba en Español? *

MR. PADILLA. Eso es lo que yo digo, es una desgracia para esa generacion que no puedan comprender siquiera el lenguaje Español.

Yo convengo que España no queria educar mucho el pueblo Filipino porque la teoria era que era mas facil colonizar y continuar el gobierno Español si la masa Filipina no esta bien educada. Yo concuerdo con eso, de que no querian que se eleve la esfera educacional intelectual del pueblo Filipino, pero no necesariamente no enseñar al pueblo la lengua Española. Hay mucha diferencia. Yo concuerdo de que no querian educar al pueblo Filipino porque es mas facil dominar a un pueblo que sigue ignorante mas bien que a un pueblo educado. Pero eso no quiere decir que no debemos conservar, ni mucho menos, no deberiamos haber aprendido la lengua Española.*

MR. GUINGONA. Señora Presidenta, podria dirigir una pregunta al Honorable Comisionado Padilla? *

MR. PADILLA. Con mucho gusto.

THE PRESIDENT. Just this one, and we will end this discourse in Spanish.

MR. GUINGONA. Quisiera saber, Señor Comisionado, que es su deseo? Es su deseo que debemos incluir en nuestra Constitucion la provision de que esta Constitucion se debe promulgar en Español, o, estaria usted satisfecho si podriamos decir solamente que nuestra Constitucion seria traducida a nuestros dialectos y tambien en Español? *

MR. PADILLA. No, yo concuerdo con la recomendacion del Comisionado Tingson, que nuestra Constitucion sea tambien traducida en Español.*

MR. GUINGONA. Gracias.*

THE PRESIDENT. I think we have to cut short this discourse in Spanish much as we were, I suppose, enjoying it. Let us proceed, Mr. Floor Leader, to the next speaker.

MR. SARMIENTO. Yes, Madam President. After the exchange of the two colorful religious ministers, may I now call on another minister, Commissioner Ople.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you, Madam President. I, and several others too, wanted to raise a point of order because of the misfortune that we belong to a younger generation deprived of the opportunity to know Spanish, but, of course, a certain regression to the past will do no harm to the deliberations of this body.

Madam President, we are now on the subject national language. I congratulate the committee for taking this overdue historic decision to recognize Filipino as the national language of the Philippines. And, of course, I think the record will have to indicate a few crucial points. Will the committee offer an explanation as to the difference between Filipino with a capital "F" and Pilipino with a capital "P"?

MR. VILLACORTA. Madam President, we had passed around a position paper, "A Note on The Filipino Language" authored by Dr. Ernesto Constantino of the Linguistics Department of the UP and we concurred with his differentiation in that Filipino is different from Pilipino which is based on only one language, Tagalog. Filipino, on the other hand, is based on different Philippine languages. Also, Pilipino is based essentially on the language usage and peculiarities of the Tagalog group; while Filipino is based on the language usage, similarities and peculiarities of the different Philippine ethnic groups.

I think Commissioner Bennagen would also like to elaborate on this.

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*See Appendix for translation

MR. BENNAGEN. Madam President, noon pong 1971 Constitutional Convention napag-usapan na rin iyan at nabanggit nga na ang Pilipino ay batay sa Tagalog, pero dahil nga sa tutol ang karamihang hindi Tagalog at sa pangangailangan din ng pagpapatatag ng isang wikang pambansa batay sa mga iba't ibang wika sa Pilipinas ginawang Filipino dahil alam natin ang alpabeto ng Pilipino ay walang letra "F" samantalang may mga ibang wika sa Pilipinas na mayroong letra "F." So, may symbolic value rin ito. Ibig sabihin hindi lamang Tagalog ang batayan ng wikang pambansa kundi lahat ng wika sa Pilipinas. Ako po ay isang Ilokano.

MR. OPLE. Yes, Madam President, at the present stage of development of Filipino, especially, this is taught and actually utilized in the University of the Philippines. Filipino with its main features, that is to say, with a capital "F," is not yet really highly distinguishable from Pilipino with a capital "P." Will the committee agree to that construction?

MR. VILLACORTA. The qualification "highly distinguishable" is appropriate. It is not highly distinguishable. So we agree with the Commissioner, Madam President.

MR. OPLE. Thank you. And the developments in grammar, syntax and the rules of language that have pertained to Pilipino with a capital "P," although amended to become highly liberalized, will not be discarded because we are recognizing Filipino with a capital "F" as the national language. Will that be correct?

MR. VILLACORTA. It is inevitable, Madam President, that the starting point would be Pilipino because that has already been developed in the past as an evolving national language, but then this does not mean that we should limit ourselves to the syntax or to the vocabulary of Pilipino which is based on Tagalog.

MR. OPLE. I agree with the Commissioner. I myself see Filipino as being different from Pilipino with a capital "P," in the sense that Pilipino is a more malleable, more dynamic, more open-ended national language, not only ready but also very eager to receive contributions from all the other languages of the Philippines. Will that be the committee's position as well?

MR. VILLACORTA. Yes, Madam President. In fact, the linguists who were our resource persons in our different public hearings said that the language structures of all Philippine languages are similar to each other. So there will be no difficulty in incorporating words from different Philippine languages and dialects. Moreover, researches showed that it is much easier for different ethnic and language groups to learn another Philippine language than to learn English or another foreign language.

MR. OPLE. That is very true, Madam President. It is not uncustomary for a Cebuano or a Bicolano in Manila to learn Tagalog in two months so that he or she becomes fluent in conversation.

MR. GASCON. Madam President, Commissioner Bennagen would like to add something.

MR. BENNAGEN. We would like to add that the provision on page 5, line 9, which states: "developed on the basis of Philippine and other languages" includes also non-Philippine languages, such as English and French languages. For example, if we say: "Ipaxerox mo nga ito,", the word "xerox" will be standardized as part of Filipino.

MR. OPLE. So that means the language is open to all influences.

MR. BENNAGEN. That is right, but a major task would be, therefore, standardization.

MR. OPLE. Does the committee, however, believe that the enrichment, expansion and indefinite strengthening of the living language through assimilation will have to be done in the course of the evolution of this language, and that it is not the intention of the committee to prescribe certain quotas, according to quotas of assimilation from different languages, in accordance with a certain fiat of the government?

MR BENNAGEN. No, Madam President, because we look at language as an organic thing which has its own logic of growth; therefore, we must follow that. But what we are saying is that government ought to be able to accelerate or speed up the development of that language, respecting its own logic of development.

MR. OPLE. Thank you for that clarification.

I now proceed to Section 2 which states:

> The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions.

We have just witnessed, and some of us participated in what others thought was an anachronistic proceeding, an exchange of statements on the floor conducted in the Spanish language.

Spanish, let us admit it, is generally seen by the younger generation as an anachronism, if only because 100 years now part us from the last time that a substantial number of Filipinos spoke Spanish. Spanish, together with Tagalog, was the language of the Malolos Republic. It was very difficult in 1898 and 1899, during the formation of Filipino nationality, to depart from Spanish. And some of the speakers remarked the fact that both the *Noli Me Tangere* and the *El Filibusterismo* were written in Spanish. But, of course, there had been a lot of changes in the world of political system since 1898 and 1899 and Spanish had tended to recede, as English continued to emerge as a dominant *lingua franca* of mankind, especially of trade and commerce and of science and technology.

But may I submit, Madam President, that history is turning on its hinge again. Today, Spanish no longer seems to be an anachronism. Outside our own country, it is emerging as the world's number two language. It is the second language of the United States of America. It is the first language of 400 million Latin Americans, perhaps much more than that, if we include the entire Iberian civilization, which includes the Philippines. By the year 2000, according to all the economic think tanks, most of Latin American countries will become dynamic industrialized nations belonging to the OECD. And, of course, Miami even now is emerging as the great nexus of a new dynamic trade between Latin America, North America and Western Europe and there is no question that there will be repercussions across the Pacific of the emergence of the Iberian nations as newly industrialized nations just a couple of decades from now. Therefore, I would like to find out whether the committee would be receptive at the appropriate time.

Spanish, as a valued historical legacy, is acknowledged in this section of the Constitution, not as a compulsory subject to be taught in schools – I think that has been a complete failure – but as a language, to be taught on a voluntary basis and encouraged by the government and by policy, both in its development and propagation, with nothing compulsory about it. Everything will be voluntary. In that manner, we are not paying so much a homage to the past but looking forward to the future, in the very near term, when the economic interaction of the Philippines with the rest of the world can be vastly facilitated if we had a group of Filipinos capable of speaking and writing this language. What I have in mind is just an acknowledgement of this language in the Constitution without imposing it as a language of instruction or a compulsory subject to be taught in our schools.

I remember when Prince Juan Carlos came here a few years ago. He went to the Rizal Park and bowed his head in apology to Dr. Jose Rizal, and I thought that marked a turning point when we should start recovering from the Spanish trauma to which we are all heirs. But that is with respect to Spanish, and at the proper time I, in association with some Commissioners, would like to propose an amendment with the committee's indulgence.

MR. VILLACORTA. Like other amendments, Madam President, we shall consider the Commissioner's amendment at the proper time.

MR. OPLE. Thank you very much, Madam President. And finally, with respect to the auxiliary official languages in their respective regions, will the committee consider again at the appropriate time an amendment that will also extend the aid and protection of the State to the development and propagation of these regional languages so that public funds may be lawfully spent on their development and propagation?

MR. VILLACORTA. We would welcome that amendment, Madam President.

MR. OPLE. Will the committee also consider an amendment so that it will be explicit in the Constitution that these regional languages may be taught as elective courses in state universities?

MR. VILLACORTA. Certainly, Madam President. I see other committee members nodding; so I think the Commissioner should leave everything to us.

MR. OPLE. That is a good augury for what is to come. Thank you very much, Madam President.

MR. VILLACORTA. I thank the Commissioner.

MR. BENNAGEN. Madam President, we just want to underscore that the general principle enunciated by Commissioner Ople on the voluntary learning of Spanish applies also to the other languages as they create their own demand; for instance, Japanese and Mandarin which are creating their own demand and people are learning these on a voluntary basis. I think on that basis we shall entertain the amendments.

MR. VILLACORTA. Madam President, I just would like to announce the change of venue of the caucus among the members of the committee and those who have amendments after this evening's session to the South Lounge. So in particular, Commissioners Azcuna, Maambong, Davide, Tingson, Padilla, Monsod, Aquino, Ople and Bacani submitted their amendments.

MR. OPLE. Madam President, if we are not ready with our proposed amendments now, anyway they have been identified in their outline, can we present the complete proposed amendments tomorrow morning?

MR. VILLACORTA. The Commissioners can, Madam President.

MR. OPLE. Thank you very much, Madam President.

MR. SARMIENTO. Madam President, may I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President. I seek enlightenment on some of the proposals on language. In the proposal, it is now clearly stated that the national language of the Philippines is Filipino. As correctly pointed out by the committee earlier, in the 1971 Constitutional Convention provision, it is stated categorically that the Batasang Pambansa shall take steps towards the development and formal adoption of a common national language to be known as Filipino.

Is it, therefore, our understanding that when the 1972 Constitution was allegedly ratified in 1973, the common national language to be known as Filipino was actually evolved and developed by any process by the Batasang Pambansa, for which reason in the 1986 Constitution we now would consider Filipino, which was supposed to be adopted and promulgated by the Batasang Pambansa, as the common national language?

MR. VILLACORTA. Madam President, we consulted many language experts on this matter, and they said that even before the 1973 Constitution was promulgated, there was already a language evolving which we can rightfully call Filipino – a *lingua franca* that incorporates different words from several Philippine languages.

MR. DAVIDE. I am sure, Madam President, that the 1971 Constitutional Convention conducted several public hearings and that several linguists were all invited. But what came out as a provision was that the Batasang Pambansa shall take steps to evolve and formally adopt a national language to be known as Filipino. It was clearly an indication that as of the adoption by the 1971 Constitutional Convention of that particular provision, there was no such language known as Filipino.

MR. VILLACORTA. Madam President, a language is not legislated. It is not evolved primarily through legislation, although legislation can help expedite the development.

MR. DAVIDE. Yes, but the Batasang Pambansa was mandated precisely to take steps for the evolvement and formal adoption of that language to be known as Filipino. So necessarily it is a fact that the Batasang Pambansa did never take any step.

MR. VILLACORTA. May I know from the Commissioner what would convince him that there is an existing language called Filipino? What would be the indicators or signs?

MR. DAVIDE. That is exactly what I am about to ask: What were the indicators that the committee took to now conclude that there is such a thing as a language known as Filipino?

MR. VILLACORTA. First of all, the assumption is that people do not necessarily call that *lingua franca* Filipino. In other words, we are not closely associating a living *lingua franca* with what people call it. They may be speaking it, but they may not be calling it Filipino. Am I right, Madam President?

MR. DAVIDE. Anyway, the point of reference is the provision of the 1973 Constitution. I now would ask for clarification: What was the *lingua franca* of the Philippines before the adoption of the 1973 Constitution?

MR. VILLACORTA. The *lingua franca* at that time was not fully evolved. This was the testimony of many language experts.

MR. DAVIDE. In other words, there was no *lingua franca* before the adoption of the 1973 Constitution.

MR. VILLACORTA. Commissioner Bennagen would like to say something.

MR. BENNAGEN. Madam President, there was already a *lingua franca* in the sense that when somebody from Batanes meets somebody from Cebu, they would evolve a kind of language, except that it was not yet popularly known as Filipino.

MR. DAVIDE. I will ask categorically the question: Was there a *lingua franca* before the adoption of the 1973 Constitution?

MR. BENNAGEN. There was, Madam President.

MR. DAVIDE. What was the name of that *lingua franca?*

MR. BENNAGEN. It was either referred to by some linguists as Filipino, others as Pilipino and others just simply as *national lingua franca.*

MR. DAVIDE. So it was not really very categorically denominated as Filipino. Now, let me finish my question. Some Filipinos call it Pilipino and others call it Filipino. Is there any specific written authority to the effect that a *lingua franca* known as Filipino actually existed before the adoption of the 1973 Constitution?

MR. BENNAGEN. Does the Commissioner mean a legal document or act?

MR. DAVIDE. Not necessarily a legal document, but any book maintaining that Filipino was a *lingua franca* before the adoption of the 1973 Constitution.

MR. BENNAGEN. Yes, I can refer the Commissioner to some of the articles by Dr. Ernesto Constantino.

MR. DAVIDE. Does the Commissioner refer to Mr. Ernesto Constantino who submitted this afternoon this so-called note on the Filipino language?

MR. VILLACORTA. Yes, Madam President.

MR. DAVIDE. Is he the same Mr. Constantino who, together with Dr. Consuelo Paz, Professor Rosario

Torres Yu and Jesus P. Ramos, submitted to us this mimeographed sheet entitled: "Proposal Para sa CONCOM: Probisyon para sa Pambansang Wika"?

MR. VILLACORTA. Yes, Madam President.

MR. DAVIDE. And may we know, for purposes of record, whether the language used in this "Proposal Para sa CONCOM: Probisyon para sa Pambansang Wika" is Pilipino or Filipino?

MR. VILLACORTA. The language used is Filipino, with an "F." If the Commissioner will look at page 5, it states: "Ang mga probisyong ipino-propose dito. . ." That is not Tagalog or Pilipino; it is "universalistic."

MR. DAVIDE. I am not really very familiar with Tagalog because I am a Cebuano, but I got the impression that the so-called Filipino is also based on Philippine languages which are really the native dialects. Is that not correct?

MR. VILLACORTA. They are not dialects. We have been used to calling them "dialects" but they are languages on their own.

MR. DAVIDE. Nevertheless, whatever it is, they are native languages, sometimes known as native dialects.

MR. VILLACORTA. They are wrongly called native dialects.

MR. DAVIDE. So definitely this Filipino language used in this proposal of Constantino, et al is based on the Philippine or native languages.

MR. VILLACORTA. I had not read it carefully, but I would imagine that it has incorporated some native languages.

MR. DAVIDE. Yes, Madam President, because I am going to show that perhaps there is really no basis yet for a common national language known as Pilipino. I can challenge anyone that this language which the committee had admitted to be Filipino – I am referring to the language of Constantino, et al – is not really Filipino.

The committee admitted that Filipino has assimilated the words of Philippine or native languages. But the first paragraph of the proposal alone does not contain any definite Cebuano word. We notice here that there are more Spanish words like: communicacion, dominio, privado, publico, termino, concepto, oficial, efecto, colonial, educacion, cultura, gobierno, complicado, complicadong situacion, decolonizacion and so on.

MR. GASCON. Madam President, that is correct. As we asserted a while ago, the Filipino which we are recognizing now as the national language is still a developing language. And if the Commissioner will refer to a note on the Filipino language, it is even similarly asserted here that at this stage of the development of Filipino, this language bears more similarities with Tagalog than with any other Philippine language.

One can see that the similarities between Filipino and Tagalog are greater than the similarities between Filipino and, say, Cebuano or Hiligaynon. But this does not necessarily mean that the language which is continuing to be developed will not assimilate more words from other Philippine languages.

MR. DAVIDE. That is correct; I have no quarrel about that. The only point is that the proposal of the committee would consider Filipino as the national language. Or, as correctly stated or even more emphatically stated, that Filipino is the national language. But the fact of the matter is that there are no concrete findings; there are no definite studies pointing to the development of the language known as Filipino.

The gap between 1973 and 1986, with full public knowledge that the Batasang Pambansa took no step whatsoever to evolve and formally adopt the language, is a concrete evidence or a specific demonstration of the fact that what ought to have been developed as our national language known as Filipino was never at all developed as such.

The conclusion of the linguists, Madam President, in the light of the absence of any step taken by the government to evolve and formally adopt it would necessarily mean that it is on the basis of their own perceptions, not on the basis of the actual growth, the actual propagation, the actual evolvement and the formal adoption of the language.

MS. ROSARIO BRAID. Madam President, the evolution or the development of Filipino as a national language was hampered by the bilingual policy of the government. If we only discard this bilingual policy, and with this legal mandate now of making Filipino the official language, I think we will move ahead towards enriching the national language.

MR. DAVIDE. I wish I would not be misconstrued as objecting to Filipino as a common national language. I am for it. It is only in the matter of a presumption that it is already the national language.

The point is that probably we should just adopt the provision in the 1973 Constitution that we shall develop a common national language to be known as Filipino, based on Philippine languages and, perhaps, with assimilation even of foreign languages, in like manner that Mr. Constantino himself, who claims that his position paper is in Filipino, has adopted Spanish words.

MR. VILLACORTA. Madam President, that would be slowing down the pace of the development of the national language, if we go back to the 1973 Constitution's provision. Let us look at what happened between 1973 and at present. There have been no resolute efforts on the part of the government to really develop the national language officially. What we are talking about is the living *lingua franca*. Madam President, we can provide the Commissioner with the research literature which will hopefully convince him that there is a living *lingua franca* called Pilipino. But on the basis alone of the proposal in Filipino which the Commissioner has before him, I agree that it is not convincing enough. That is why we can provide the Commissioner with other evidences of the existence of Pilipino.

MR. DAVIDE. I would be very glad, Madam President, to take time to be convinced, but the point is that, if the development of the common national language mandated by the 1973 Constitution was hampered, perhaps we can improve the wording of the 1973 Constitution by saying: "Congress shall take steps for the full development and the full enrichment of a common national language to be known as Filipino." And, perhaps, we would mandate the establishment of a National Language Commission. So, in other words, we should be realistic; we should attack the problem as it now exists, but we should mandate for its full development and future enrichment.

MR. VILLACORTA. To make it really stronger, Madam President.

MR. DAVIDE. That is right, Madam President.

MR. VILLACORTA. We can work together on that, Madam President; that is why we would want the Commissioner to be present in our caucus this evening.

MR. BENNAGEN. May I just add, Madam President. I think we should be able to distinguish between attitudinal and technical problems. I think the attitudinal problem requires us to assert that we have a language, and also to recognize the limitation of that language. So when we speak of Filipino as it is, we are also saying that the elements are already there, but they require fuller development. This is the reason why in the second sentence of Section 1, we say that it shall be further developed. But I think it is important to assert it as part of our national identity. I think it is more of an attitudinal problem.

MR. DAVIDE. It is not just a question of attitude, Madam President. We know for a fact that language is a very divisive issue; it is an emotional issue. We do not think of Tagalog and Cebuano alone. We have to think of the other regional languages and dialects.

MR. BENNAGEN. I think we accept that, and that is exactly why we consider this.

MR. DAVIDE. So we should be objective in our approach on this issue so as not to make it very explosive.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I just contribute some additional information to this debate. Commissioner Davide is right that in the 1973 Constitution, what is said there is that the regular National Assembly or the Batasang Pambansa shall take steps to develop and adopt a national language to be known as Filipino, with a capital "F." It was a compromised settlement in the 1971 to 1973 Constitutional Conventions where Pilipino, with a capital "P," was actually allowed to remain as an official language, but in effect it was set aside as the national language in favor of Filipino with a capital "F." I think the issue posed by Commissioner Davide is very central. It merely means that we should go back to the formulation of the 1973 Constitution so that the future Congress shall take steps to develop and adopt a national language to be known as Filipino, with a capital "F," although the Commissioner grants that this Filipino is much more than the old Pilipino, with a capital "P" – open to assimilation from other languages and, therefore, much preferable.

Regarding the question of Commissioner Davide of the extent of the steps that have been taken, I think oblivious of government, tremendous social and cultural forces in our country and outside have already definitely settled this issue of Filipino, with a capital "F," as the national language. I am not speaking of the formality of Filipino, but there are two million Filipinos now scattered throughout the world, including 600,000 contract workers in 117 countries. And when they communicate among themselves – many of them are from the South, others are from the North – especially in Saudi Arabia where we have 250,000 of them, invariably, they communicate in what we now call Filipino, with a capital "F." It is not the Filipino of Bulacan, of Laguna, of Cavite or of Batangas; it is the patois of Metro Manila. And although this language is spoken by Filipinos who come from all provinces and cities of the country and abroad, it will never pass master with Commissioner Soc Rodrigo of Bulacan. We have to accept it as the reality that we do have, thank God and the forces of history, this new common bond of a national identity wherever we go, wherever we are, wherever we fraternize with our countrymen.

So I see nothing wrong at all. We do no violence to the truth, to history or to any law when we support the committee's position recognizing Filipino, with a capital "F," as the national language of the Philippines. It is, of course, understood that this is not a closed system. It is not static; it is not bound hand and foot by the *Balarila* of Lope K. Santos in 1946 and 1947. It will evolve freely and the people will choose just how much of it will be Cebuano, how much of it will be Ilonggo, how much of it will be Ilocano, in the days to come.

I think what is remarkable now as the new feature of Filipino, with a capital "F," is that it is keen to accept assimilation from all the other languages of our country and from all other influences where the possibility of the infinite enrichment of this national language of the Philippines exists.

I do not accept this stream of Spanish words in the paragraph read by Commissioner Davide. It jars the ears of a Tagalog from Bulacan. Why can we not endure all of these barbarities, if they help form a new common language for Filipinos? Maybe in due course, this patois of Tondo, of Manila, of Makati or of Quezon City will acquire its own more civilized formation, its morphology will improve and its literature will rise.

So I think we are on the right track, Madam President, when the committee proposes, and the rest of us support, the recognition of Filipino, with a capital "F," as the national language and also when it ensures that the other native languages of the Philippines, like Cebuano, will also be subject to the aid and encouragement of the State so that they will also develop collaterally with the national language. So Cebuano and Ilocano can also be taught in the University of the Philippines as elective courses for people, like this humble Representation who wants to learn three native languages at the same time. Instead of learning these in the now famous night clubs of Cebu or even of Roxas Boulevard, I would demand the right to be taught Cebuano in the University of the Philippines. So, Madam President, I submit that the committee deserves the support of this Commission in its historic decision to recognize Filipino as the national language.

MR. DAVIDE. Madam President, we have no disagreement that we call the common national language Filipino, with a capital "F." It is just a matter of how it shall be worded. I agree that perhaps among Filipinos abroad – I have not interviewed anyone of them – they can speak a common language but I do not think that such a common language has been denominated as Filipino. Basically, it is really Pilipino based on Tagalog. There are many Cebuanos abroad; there are many Cebuanos now who can speak Pilipino or Tagalog, because Pilipino is taught in our schools. Although the common national language is to be known as Filipino, in our public schools there is no such subject known as Filipino. It is Pilipino and my children are taking courses in Pilipino. So, perhaps, we can just align it in such a way that we recognize the Filipino as a common national language, but we should not say that it is now the common national language. As I have demonstrated, even in what Mr. Contantino had said is the Filipino, not only in the first paragraph of the proposal have I underlined the Spanish words. All over it I underlined them and the language really became more awkward. It looks less Filipino as a matter of fact. It is more alien in effect. So I do not want to make it of record that this language on which this proposal of Constantino, et al is based is Filipino. I hope the committee would reconsider its admission that this is Filipino, the national language. At the proper time, I will introduce some amendments.

Another point, Madam President, which is just a follow-up on the Spanish language. I cannot speak Spanish but I am in favor not only of translating the Constitution into Spanish but also of making it as one of the official languages. These would not make us less Filipinos. I would invite the eyes of the members of the committee toward their back on the seal of the Republic of the Philippines. We still have the Spanish lion and the great American eagle on the seal. Would maintaining the seal of our mace and flag and of the Sagisag ng Presidente with the Spanish lion be an act of a Filipino which would really be anti-Filipino? I do not think so. Perhaps that lion on the seal would continue to remain not only because of history. In short, let us not forget also the past. It would not make us less Filipinos in any language or in any way.

Thank you very much, Madam President.

MR. GASCON. Madam President, why does Commissioner Davide wish to try to redeem the so-called glory of our Spanish past, which I think is unnecessary especially because, as I have pointed out, when the Spaniards were here they did not want us to learn their language? Why should we try to care for their language at this point in time?

MR. TINGSON. Madam President, we are the loser, if we refuse to learn a language which is second in the world today.

MR. GASCON. Yes, Madam President. We would consider any amendments later on because Spanish is a beautiful language.

MR. TINGSON. Madam President, I would like the Constitution to be translated into Spanish.

MR. GASCON. Madam President, first and foremost, we have our own language. We have our own identity and we should encourage this. This speaks of our own language. Second, if the Commissioner would permit me to make a reaction to his proposal that the Constitution shall be promulgated in Filipino, English and Spanish, I feel that perhaps later on there could be some translations into Spanish which could be sent abroad, but I do not believe that it should be promulgated in Spanish. In fact, we should even give priority to it being written in the regional languages. Why does the Commissioner wish Spanish to become an official language?

MR. DAVIDE. Madam President, there had already been statements, a matter of public knowledge, that

Spanish is the second language of the world today and we have the projection of Commissioner Ople and definitely many more Filipinos are going abroad. It would make the Filipinos more proud as Filipinos if they could speak the Spanish language. And, moreover, we lawyers have the Philippine Reports where many of the decisions are in Spanish. We have good literature in Spanish. I was even about to rise a few minutes earlier when the communication on the floor was in Spanish. I do not know how it was recorded. But this proration in Spanish was really beautiful and we listened to it even if it is not even an official language. I do not know if it will appear in the record of the Commission. Nevertheless, it would only show that perhaps it is high time that we should also recognize Spanish as an official language. I was very happy to hear the chairman of the committee and Commissioner Guingona talking in Spanish. It is a beautiful language. I cannot speak it but I enjoy listening to it.

MR. GASCON. Yes, it is a beautiful language. But does the Commissioner have any statistics to show how many Filipinos right now speak the language called Spanish?

MR. DAVIDE. I would put it this way, Madam President. Does the committee have statistics to show that only a very, very negligible minority speaks the Spanish language? I do not think we base our judgment on statistics, in like manner that when we took up the matter of ownership of private educational institutions, I was asked for statistics yet the committee was not prepared with statistics. So the point is, let us not consider statistics. Let us consider culture among others.

MR. GASCON. Yes, Madam President, that is right. How come the Commissioner prefers to make our national language Pilipino instead of Filipino which is more widely spoken than Spanish? How come he prefers to make Spanish an official language which is not spoken by a majority of the Filipinos? There is inconsistency when we speak of our official language.

MR. DAVIDE. There is no inconsistency, Madam President. I mention Filipino as a common national language. We distinguish between a common national language and an official language.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, on the matter of Spanish being an official language, has the committee looked into that presidential decree, the number of which escapes me at the moment, which holds that up to now Spanish is an official language and shall continue to be so until such time as all the archives in Spanish have been translated into English or the national language? This is pursuant to the provision of the 1973 Constitution that until such time as Congress shall provide otherwise, then the official languages shall be Filipino and English. But, subsequently, the then President issued a presidential decree making Spanish still an official language up to now.

In connection with the comment of Commissioner Davide, I agree that despite the mandate of the 1973 Constitution it would appear that Congress never took any steps to develop a national language. I was wondering, however, whether or not the committee has looked into the possibility that the Institute of National Language has taken some positive steps. I know that there was such an institute which was even reinforced by appointments of President Marcos. But I am not aware of any official report as to what steps that Institute of National Language took pursuant to the constitutional mandate because, possibly, there might really have been steps taken pursuant to that mandate that they develop the national language.

MR. VILLACORTA. Madam President, in relation to that we got a letter from the office of the Director of the Institute of National Language signed by several officers and members of the Surian ng Wikang Pambansa. They said, and I quote: "Kaisa ninyo kami sa Pilipino, na ang pinakabuod o nucleus ay Pilipino." So we agree with the Commissioner in his espousal of Filipino. With respect to the development of Filipino, pursuant to the provision of the 1973 Constitution, we know for a fact that the Surian had been working very hard to liberalize the development of the national language by being open to the incorporation of words from other Philippine languages. As a matter of fact, the alphabet has been expanded to include f, v, c, z, and others.

MR. REGALADO. That is right, Madam President. On the comment of Commissioner Davide that the word Filipino, with a capital "F," appears not to be recognized because what is taught is still Pilipino, with a capital "P," I recall that about three years ago the Supreme Court and the Ministry of Education required all law students who were expecting to graduate within that year or the years thereafter to take Pilipino I and II, if they had failed to do so during their pre-law courses. We can check this out with the records of the MECS as well as with the records of the Supreme Court. This is what bothers us. It is not a question of the letter "P" or "F," because the word Pilipino, with a capital "P" has a meaning distinct from Filipino with a capital "F." This Pilipino referred to the basic Tagalog that we had then, unlike the Filipino, with a capital "F" which presupposes that the etymology will involve the assimilation from different sources of the terms that will be used therein, even Spanish and English. For that matter, I do not see why we should hesitate to emulate. If we look at the English dictionary, we will see that most

English words are taken from Anglo-Saxon, Welsh, Spanish, French and even Tagalog. "Bundok" or "boondock" is already in the English dictionary, so Tagalog is a rich language. In Bahasa Indonesia, the words are put in their own spelling; like the word "department," they put it "department." It already becomes Bahasa Indonesia.

MR. VILLACORTA. That is right, Madam President.

MR. REGALADO. Madam President, we put "ministry" m-i-n-i-s-t-r-i. It already becomes Pilipino. So we should not necessarily be alarmed just because some foreign words get ingrafted into our dictionary because I am putting a parallelism with the English language, which is now the international language. We know how rich it is, and yet I do not see anything there that is indigenously American, except, I suppose, the Indian names. Almost every English word in the dictionary draws from foreign sources, and, I think, that is also what we should take as the proper attitude.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

This is only a point of information because I heard the Honorable Regalado mention Spanish being an official language. I think he is correct because I have with me a copy of P.D. No. 155, which was issued on March 15, 1973, wherein it is provided, among other things, that the Spanish language shall continue to be recognized as an official language in the Philippines while important documents in government files are in Spanish and not yet translated either into English or Pilipino language.

THE PRESIDENT. Thank you, Commissioner Suarez.

The Acting Floor Leader is recognized.

MR. SARMIENTO. We have two more interpellators, Madam President: Commissioners Suarez and Maambong. So I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President. Being a native of Pampanga, I am not really emotionally disturbed by the use of the letters "f" and "p" or interchangeably.

Madam President, may I call attention only to a few points which we would like to clarify. For example, in the matter of other languages, I heard Commissioner Bennagen say that this is with reference to non-Philippine languages. In other words, this could be Spanish, English, French or any other language. Is our understanding in this regard correct, Madam President?

MR. BENNAGEN. Yes, Philippine and other languages. As pointed out by Commissioner Regalado, that is how a language grows. It picks up from other languages with which it comes into contact and that is how it is enriched.

MR. SUAREZ. Thank you, Madam President. In our search for a common national language in order that we can forge unity among our people, years have been spent and wasted. But the committee proposes in Section 1 that steps shall be taken by the government to further develop, enrich and use it as a medium of communication in all branches of government. Does the committee have a time frame for the adoption of these steps and measures?

MR. BENNAGEN. I do not have any idea, but these can be done in a number of days. In Malaysia, I think they did it in four years from 1967 to 1971, after which their language became an official and a truly national language. I think these depend on the political will of the people. That is why we are saying that rescinding from the problem of unplanned development, which is what was described by Commissioner Ople in the sense that it grows naturally outside of the formal institutions which develop this, and taking an aggressive program by formal institutions like Congress and a version of the Surian in developing a language can shorten its rate of growth.

MR. SUAREZ. Thank you, Madam President. When the Commissioner speaks of the language of instruction being conducted at all levels of the educational system, is he thinking of doing it all at the same time or gradually?

MR. BENNAGEN. Madam President, maybe that can be left to Congress. In 1971, we started at the University of the Philippines using a kind of Filipino. And this language has been used not only in the humanities and engineering, but also in the social as well as natural sciences subjects like physics and chemistry.

MR. SUAREZ. Was this in the collegiate level? The Commissioner did not start from the elementary level.

MR. BENNAGEN. Yes, Madam President. It was encouraged by then President Salvador P. Lopez. These were fused as a medium of instruction and also as subjects.

MR. SUAREZ. Thank you, Madam President. When the Commissioner speaks of auxiliary official languages in their respective regions, what exactly does he have in mind?

MR. BENNAGEN. In addition to Filipino and English, they can be accepted also as official languages, even in government and in education.

MR. SUAREZ. So that not only will they be a medium of instruction or communication but they can be considered also as official languages.

MR. BENNAGEN. That is the intention of the committee. We should respect also the regional languages. Incidentally, we consider Arabic also as a regional language in the sense that it is used in the Muslim areas.

MR. SUAREZ. Madam President, for example, in conducting trials before the Regional Trial Courts in Cebu, could Cebuano be used as an official language?

MR. BENNAGEN. Yes, Madam President, if they feel adequate in using it. I think the question of adequacy should also be considered.

MR. SUAREZ. What will happen to the poor Pampangueño lawyers who will attend trials in Cebu? Do they have to master Cebuano also?

MR. BENNAGEN. They have to master Filipino as a national language.

MR. SUAREZ. Thank you, Madam President. My last question is a little more difficult. I suppose the committee deliberately omitted the phrase which appears in the 1973 Constitution that in case of conflict, the English text shall prevail. So in the interpretation of this Constitution, which according to the Commissioner shall be promulgated in English and Filipino, which text would prevail?

MR. BENNAGEN. I would say Filipino. But since our deliberations this afternoon are in English, Spanish, assuming that that was transcribed, and Filipino, then I would imagine all of these will have to be taken into account.

MR. SUAREZ. May we know the reason of the committee in dropping this particular provision appearing in the 1973 Constitution, Madam President.

MR. BENNAGEN. Our chairman wants to be recognized.

MR. VILLACORTA. We kept quiet about it because it is such a controversial question. We were divided in the committee on this issue and we thought that we throw it to the floor and let the body decide.

MR. SUAREZ. Thank you, Madam President. We really need guidance as to what text would prevail in the interpretation of these constitutional provisions, especially because many of them may go up to the Supreme Court for review. I think we should really resolve that matter, Madam President.

MR. VILLACORTA. I thank the Commissioner.

MR. SARMIENTO. Madam President, I ask that Commissioner Maambong be recognized.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, last August 5, 1986 I was with Don Miguel Cuenco. We were invited to appear before the committee and during that meeting, I suggested an amendment to Section 1 which was accepted upon the support of Commissioners Rigos, Brocka, who, unfortunately, is no longer with us. The amendment to Section 1 which was accepted by the Committee reads:

> In the development of the national language, due consideration should be given to the dialects and languages of the Filipinos.

However, this accepted amendment is no longer found here, instead I find this sentence which reads:

> The national language shall be further developed on the basis of Philippine and other languages.

My question, Madam President, is: Is this present formulation now a reformulation of the one which was accepted by the committee?

MR. VILLACORTA. Yes, Madam President. In fact, it is stronger because what the Commissioner had proposed is only to give due consideration. Now it is categorical: "developed on the basis." So it is not just giving consideration to Philippine languages but it also provides that the national language shall be further developed on the basis of Philippine dialects and other languages.

MR. MAAMBONG. In other words, the amendment which I proposed and which was accepted by the committee is actually captured by the present sentence which is now in Section 1.

MR. VILLACORTA. That is right, Madam President.

MR. MAAMBONG. Thank you very much.

May I go back just for one question. I do not know whether or not this can be answered by the committee. I notice, Madam President, that in some past letters of instructions the schools were enjoined to implement integration of family planning in their curricula. I was wondering whether this is properly a function of educational institutions, considering that in the formulation of the provisions on education now we are giving educational institutions some leeway in the presentation of their instructions. Is this envisioned at all that implementation of family planning procedures will be handled by the schools, Madam President?

MR. VILLACORTA. We really did not take that up, Madam President, but I think this is directly related to the controversial issue of right to life.

MR. MAAMBONG. Precisely, Madam President.

MR. VILLACORTA. And I think in the General Provisions, as well as in the Article on Family Rights, this will be covered. Until such time that we resolve that issue, probably it might be premature to include that in the Article on Education.

MR. MAAMBONG. Yes, I think so, but just for the advance information of those who are involved in this issue, may I read for the record LOI 47 which was issued on December 9, 1972 instructing the Education Secretary to inform all schools of medicine, nursing, midwifery, allied medical professions and social work to prepare, plan and implement the integration of family planning in their curricula and to require from their graduates sufficient instruction in family planning as a prerequisite to qualify for the appropriate licensing examination. This was followed by LOI 47-A directing the Secretary of Public Information to help implement the programs of the Population Commission by disseminating information on family planning. Probably we can take this up at the proper time.

Thank you very much, Madam President.

MR. VILLACORTA. I thank the Commissioner.

MR. SARMIENTO. Madam President, with the kind indulgence of the body and our President, may I ask that the honorable Chief Justice Concepcion be recognized as the last interpellator.

THE PRESIDENT. Commissioner Concepcion is recognized.

MR. CONCEPCION. Señora Presidenta, do not be alarmed. That was meant merely to tickle your interest. We have been discussing about Filipino and Pilipino. We have been discussing Spanish, as distinguished from Filipino.

May I start by saying that Filipino, with a capital "F" is Spanish. Our chairman, Commissioner Villacorta, has rightly pointed out the fact that language is something that cannot be imposed. It is something that develops. As a matter of fact, the Spanish language was not the Spanish language. It was Castilian language in much the same way that what we now call Filipino is actually Tagalog.

We speak about the Roman language. It was not the language of Italy. It was the language of Rome, but Rome governed not only Italy but practically the entire Mediterranean. Also, it was the capital of Italy eventually, so the language of the capital prevailed. And that is true, I think, of the Spanish language. The Spanish language was the Castilian language. And Spain was divided into several feudal communities. The Castilian formed part of a region which was never occupied by foreigners. The Muslims or Moors ruled Southern Spain. Now as to whether or not the Filipino language existed before, I have been informed that as early as the '20s, when Filipinos met other Filipinos in the US they did not address each other in English. But one of them would say a dirty word in Tagalog to determine whether the other is also a Filipino.

What I mean is that actually during the liberation, as Commissioner Ople had stated, some patriots wanted to develop the Filipino language, but they were too purist in their translation. Let us take for instance the word "seat" to which others refer as "bangko" or "chair." We generally use the word "silya," but Lope K. Santos gave thereto the name "salumpuwit." Who would be encouraged by this kind of translation? A good many of the words used in Filipino language are Spanish. The implication is this. There are a number of things in the past which were unpleasant then, like some of our unfortunate incidents in school. We had unpleasant moments with some teachers. But those unpleasant moments are now pleasant memories. We remember the past with a feeling akin to a happy and stimulating feeling. So, too, we have had our own disagreements here. I am sure that 20 years from now, we will remember those disagreements with a smile. The speech in Spanish of Commissioner Tingson is something we will never forget. We will always remember it in the right spirit, with pleasure. Occasionally, abroad, people who speak Spanish, which used to be and is Castilian, including those from Latin America, are surprised to find that some Filipinos speak Spanish and asked: "How did the Filipinos learn to speak Spanish? " I answered: "That was before, but now the future of Spanish in my country is not so bright." Their reply is: "What a pity. Other people go to school to learn Spanish. You do not have to do that, but you want to shake it off." Now I do not look at Spanish as the colonial imposition that it was. The colonial power that dominated the Philippines is gone and I realize the fact that the Spanish language made it possible for us to establish contact with the rest of the world. It enabled us to read foreign books like those on the French revolution from which all of our heroes of the past have drawn inspiration and strength. But there are certain assets like the experience we gained from them that we should not discard; it is part of the enrichment of our culture. It is part of our political maturity. We have it already. Why shake it off? It is in this respect that I felt I should express my view which means that I agree with the suggestion that the Constitution be translated into Spanish. And whether or not it should be maintained as an official language, that will be dependent upon the will of the majority. But I strongly suggest that whatever may have been our unpleasant experience with the aliens is also an asset for us in the future. Let us learn from the sufferings that we had in the past. Let us learn that democracy is something that should be fought for. It can never come in a silver platter. One of the most unpleasant memories of our school days is that we had to seat it out, to learn from what little we know.

Thank you, Madam President.

ADJOURNMENT OF SESSION

MR. SARMIENTO. Madam President, I move that we adjourn until nine-thirty in the morning.

THE PRESIDENT. The session is adjourned until nine-thirty in the morning.

It was 7:29 p.m.

R.C.C. NO. 72

Tuesday, September 2, 1986

OPENING OF SESSION

At 10:20 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Rustico F. de los Reyes, Jr.

Everybody remained standing for the Prayer.

PRAYER

MR. DE LOS REYES. Supreme Ruler of the universe, today we shall tackle again an important and delicate issue involving the future of our patrimony and economy. As usual, debates could be heated and passionate because of the strength of our respective beliefs and convictions. We need Your divine guidance more than ever so that we do not forget that despite our diverse stand, we are bound together as brothers and sisters under Your Fatherhood.

Grant that these proceedings, which we start in peace, may continue in harmony and adjourn in friendship. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present*
Azcuna	Present*
Bengzon	Present
Bennagen	Present
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present*
Concepcion	Present
Davide	Present
Foz	Present*
Garcia	Present
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present*
Monsod	Present
Natividad	Present
Nieva	Present
Nolledo	Present*
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Absent
Reyes de los	Present
Rigos	Present*
Rodrigo	Present
Romulo	Present*
Rosales	Absent
Sarmiento	Present
Suarez	Present
Sumulong	Present*
Tadeo	Present*
Tan	Present*
Tingson	Present*
Treñas	Absent
Uka	Absent
Villacorta	Present
Villegas	Present

The Secretariat is in receipt of official advice of absence of Commissioner Bacani.

The President is present.

The roll call shows 26 Members responded to the call.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection that we approve the Journal of yesterday's session? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

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*Appeared after the roll call.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Mr. Liberato Bautista of the National Council of Churches in the Philippines, 879 EDSA, Quezon City, transmitting the NCCP's statement on the Presidential Commission on Good Government and on Religious Instruction in Public Schools, issued by Bishop La Verne Mercado and Dr. Johnny Gumban, respectively, hoping that the Constitutional Commission will find information on the thinking of the Protestant community about the subject matter treated in the statement.

(Communication No. 681 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Pastor Gil Palcone of the Marikina First Baptist Church, E. dela Paz St., Sto. Niño, Marikina, Metro Manila, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 682 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Zoilo Dejaresco, Jr. of 56 Mabini St., City of Tagbilaran, submitting a position paper recommending the reconsideration or deletion from Proposed Resolution No. 215 of the prohibition of cross-media ownership in a single market area.

(Communication No. 683 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Minister Jose S. Concepcion, Jr. of the Ministry of Trade and Industry, 361 Sen. Gil J. Puyat Avenue, Makati, Metro Manila, transmitting a copy of the article "The Constitutional Protection of Economic Freedom" by Mr. Paul Craig Roberts, hoping that said article may be of interest and use in the Constitutional Commission's historic task of writing a new Constitution.

(Communication No. 684 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from the Bible Believers League for Morality and Democracy, 2330 Revellin St., Sta. Ana, Manila, submitting its position paper on social justice, the new system of Philippine education, and a position paper in support of the retention of the provision upholding the principle of the separation of Church and State with the hope that the same may be considered favorably.

(Communication No. 685 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from the Philippine Medical Society of Florida, Inc:, signed by its President, Gonzalo A.C. Espino, and three other officers, urging the Constitutional Commission to incorporate in the Constitution a provision that would make a natural-born citizen of the Philippines who has lost his/her Philippine citizenship a transferee of private lands.

(Communication No. 686 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Mr. Edilberto R. Abentino and eighty other signatories of the Cagayan de Oro College, Carmen, Cagayan de Oro City, proposing amendments to Section 4, Article II and Section 10, Article XV of the 1973 Constitution for incorporation in the new Constitution.

(Communication No. 687 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from one Atty. Florante M. Yambot proposing that "the Armed Forces of the Philippines shall be composed of officers and men recruited proportionately from all the provinces."

(Communication No. 688 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letters each from Ms. Natividad A. Umali, 100 T. Valdellon Street, Paete, Laguna; Mr. Danilo Fabella, 103 P. Jacinto Street, Caloocan City; Mr. Julius de los Santos, P.O. Box 23, Valenzuela, Metro Manila; Mr. Teody Pajaron, 4th Floor, Lola Taya Bldg., 1165 Quezon Blvd., Quezon City; and Ms. Rebecca O. Calba, Copenhagen, Denmark, all urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 689 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from 329 signatories of concerned citizens of Negros Occidental, declaring that these signatories adhere and hold fast to democracy and to the tenets and principles of the democratic form of government and repudiate communism in all its forms and implications, and that the U.S. military bases in the Philippines be retained even beyond the expiry date in 1991.

(Communication No. 690 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory and Declaration of Principles.

Communication from 3,393 signatories with their respective addresses seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 691 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory and Declaration of Principles.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Per understanding yesterday between the chairman of the Steering Committee, Commissioner Suarez, and the chairman of the Committee on the National Economy and Patrimony, we will take up the continuation of the consideration of the Article on National Economy and Patrimony this morning. We are in the period of amendments. I so move.

SUSPENSION OF SESSION

THE PRESIDENT. Before we act on the motion, the Chair will suspend the session for a few minutes.

It was 10:31 a.m.

RESUMPTION OF SESSION

At 10:46 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. After a conference with the President, the chairman of the Committee on the National Economy and Patrimony, as well as with Commissioner Suarez, they have decided to defer the consideration of the Article on National Economy and Patrimony until this afternoon.

THE PRESIDENT. Or later in the morning, just in case; and then can we proceed with the report of the Committee on Human Resources?

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move, Madam President, that we proceed to the consideration on Second Reading of Committee Report No. 29 on the Article on Education, Science, Technology, Arts and Culture.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Will the honorable chairman, Mr. Villacorta, and the members of the Committee on Human Resources please occupy the front table?

Yesterday, we were discussing the section on national language. Whom do we have as speaker?

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President.

Yesterday, the committee made mention of the cost of ammunitions, which is P5, the cost equivalent to a notebook, the cost of a Sikorsky helicopter, armored personnel carrier and other military hardware which, if allocated for education, would really enhance the standard of education in our country. However, I would like to remind the committee that such money for military hardware is not available for education or for any other purpose. That is part of the military assistance under the Military Bases Agreement and the Mutual Defense Treaty. So, whatever amount this may be equated with and which the committee hopes to place in education is not available because that is part of the military assistance program. This is only a clarification of what I said that one cannot put a price tag on national defense and security, and the answer of the committee is: "We cannot also put a price tag on education." Such a price tag is not available for education;it is part of the military assistance program, and it is only for military hardware.

Thank you, Madam President.

MR. GUINGONA. Madam President, perhaps this is true at present, but in the future there may be renegotiations wherein some kind of distribution other than what is existing now might be considered.

MR. DE CASTRO. If future negotiations will be had and if this body will take away the military bases as proposed in a resolution, thus making the mistake of taking that out, we shall not have that much amount in military assistance.

Thank you.

MR. GASCON. Madam President, the points we raised yesterday when we referred to the statistics on military expenditures in relation to education is that, first, comparatively speaking, it would cost less to provide for greater access and greater development in education than for military hardwares; and second, we would like to stress the point that as far as funds are concerned, we believe we do have the funds; what we have to do is reprioritize our budget.

MR. GUINGONA. In addition, aside from the schemes that we mentioned, like private contracting scheme, I think what Commissioner Gascon was trying to emphasize is that there are other activities of the government where we can probably have savings to transfer to education. Some examples would be in the area of tourism or travels abroad by officials.

MR. GASCON. Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. There are no more registered speakers with respect to the section covering education. There is only one registered interpellator on the subtitle "Science and Technology," and he is Commissioner Tadeo. Nobody else has registered to interpellate. So, in the meantime, to save time, I move that we proceed to the period of amendments with respect to the Article on Education, without prejudice to entertaining interpellations from Members who are absent with respect to the rest of the titles.

THE PRESIDENT. Yes. The body can hear or listen to the proposed amendments.

MR. GASCON. Madam President, I believe Commissioner Davide has some additional points for interpellation on science and technology.

MR. RAMA. Yes, but in the meantime we could start amending the article under the title "Education." There are many who would like to present their amendments now.

SUSPENSION OF SESSION

THE PRESIDENT. We shall call for a suspension of the session for a few minutes in order to enable the committee to assemble their documents.

It was 10:54 a.m.

RESUMPTION OF SESSION

At 11:37 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, may I ask that the chairman of the Committee on Human Resources be recognized.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, we have integrated all the proposed amendments. Unfortunately, Commissioner Ople's amendment came just now but I think the sense of his proposal is also in this proposed Section 1 that we shall now present.

The new Section 1 will read: "The State shall give priority to education, science and technology, arts, culture AND SPORTS for the purpose of fostering NATIONALISM, NATIONAL UNITY, TOTAL HUMAN LIBERATION AND DEVELOPMENT, and expanding the frontiers of KNOWLEDGE, EQUALITY, justice and freedom." Shall I repeat that? By the way, this is the omnibus Section 1.

THE PRESIDENT. Chairman Villacorta.

MR. VILLACORTA. Yes, Madam President.

THE PRESIDENT. The one that is being read now is the one that is sponsored by the committee after taking into account the different amendments. Is that correct?

MR. VILLACORTA. That is right, Madam President, and this is the section that provides the philosophy of the entire article. So, this is the omnibus Section 1, not the Section 1 under education. We took into consideration the amendments of Commissioners Bacani, Nieva, Azcuna, Davide, Tan, Monsod and Ople. And it will read: "The State shall give priority to education, science and technology, arts, culture AND SPORTS for the purpose of fostering NATIONALISM, NATIONAL UNITY, TOTAL HUMAN LIBERATION AND DEVELOPMENT, and expanding the frontiers of KNOWLEDGE, EQUALITY, justice and freedom."

Commissioner Romulo also contributed to this amendment.

We would like to request Commissioner Nieva to explain the meaning of "TOTAL HUMAN LIBERATION" for the guidance of the body.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. I think total human development would encompass the totality of the human person, his potential physically, intellectually, morally, spiritually, culturally. It is the total development of the person.

MR. VILLACORTA. The Commissioner mentioned "HUMAN LIBERATION AND DEVELOPMENT."

MS. NIEVA. Yes.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I be allowed to address a few questions to Commissioner Nieva.

THE PRESIDENT. Please proceed.

MR. SARMIENTO. When she speaks of "HUMAN LIBERATION," is she referring to individual liberation or does it include collective or social liberation? Because my understanding of liberation is that it is total, complete; it involves individual, social, collective liberation.

MS. NIEVA. I think we are referring to the individual, but that does not preclude collective liberation and development.

MR. SARMIENTO. So, when we say collective liberation, we are referring to liberation from all forms of injustices.

MS. NIEVA. Yes, from all forms of enslavement, injustices, and inequalities.

MR. SARMIENTO. Thank you very much for that clarification.

MR. VILLACORTA. We would like to invite reactions on this section.

THE PRESIDENT. Are there any other comments on this revised Section 1?

MR. TINGSON. Madam President, I would like to contribute a little on that particular section.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. I want an amendment on this section, but whatever the committee will say, I will accept provided that the sense of my formulation will also be acceptable to them. I am impressed by the fact that they have formulated this, taking into account the indigenous learning systems that they have mentioned in their report; the ethical and spiritual values that should be encouraged and strengthened; critical and creative thinking; promotion of scientific, technological work-oriented efficiency; and to impart liberal education. I like them, Madam President.

It was stated that the State shall give priority to education, science and technology, arts, culture and sports towards the purpose of liberating human faculties, whatever it was, and development. I did not state that correctly or perfectly well, but I got the essence of it.

I would like to add the formulation that education is the harmonious development of the psychological, intellectual, physical, moral, and spiritual faculties of the individual. I realize that this is a description of the word "education" that is given priority there and ordinarily in constitution-making we do not, of course, describe what we are writing there. But I am so anxious that I am able to express this, if only for the record probably to take cognizance of it. But if we could put it there as an amendment, I would be very pleased.

MR. VILLACORTA. Madam President, the committee feels that it would be too long if we include that. But the description of what education is captures part of the meaning of total human liberation and development and the committee's notion of what education is, although our concept of education is not limited to what was just described; but it is included.

MR. TINGSON. In other words, I could also be a part of the Commissioners who participated in the reformulation of Section 1?

MR. VILLACORTA. Yes, Madam President.

MR. TINGSON. Would the chairman make sure that I am also mentioned there?

MR. VILLACORTA. Yes. So, we will put it on record that Commissioner Tingson is one of the cosponsors of this section.

MR. TINGSON. Thank you very much, Madam President.

MR. VILLACORTA. Thank you, Madam President.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I have to apologize for coming late and submitting my proposed amendments rather late.

I think Section 1 is excellent. I am glad that the idea of equality has been included as among those frontiers that will be expanded by education. I look in vain, however, for the idea of social and economic progress, which is the result of the improvement of the quality of the entire population. We hear with increasing frequency of investments in man, which means the social and economic justification for assigning a high budgetary priority for education. Economic planning bodies, as a rule, are more prone to prioritize investments in natural resources, and while they may not be indifferent to the quality of the population as a valid objective of economic development planning and resource allocation, an examination of most of these economic plans in the Third World will show that the priority accorded to so-called investment in man, as a keystone of economic planning, is most of the time insufficient.

And so, I have proposed the acceleration of social and economic progress as one of the objectives and, as a matter of fact, as one of the inevitable consequences where the State, in fact, gives priority to education, science and technology, arts and culture.

So, I wanted the committee to respond to that concern, whether or not we should build a jugular link between education and the quality of the population, and, therefore, social and economic progress in this flagship section of the Article on Education and related fields.

MR. VILLACORTA. Madam President, after consulting with the other members of the committee, we are accepting the sense of the Gentleman's proposal by adding after "TOTAL HUMAN LIBERATION AND DEVELOPMENT" the words "ACCELERATING SOCIAL AND ECONOMIC PROGRESS."

Would that be satisfactory to the Gentleman?

MR. OPLE. Yes, very satisfactory. Thank you, Madam President.

MR. VILLACORTA. Thank you.

So, the revised section will read: "The State shall give priority to education, science and technology, arts, culture AND SPORTS, for the purpose of fostering NATIONALISM, NATIONAL UNITY, TOTAL HUMAN LIBERATION AND DEVELOPMENT, ACCELERATING SOCIAL AND ECONOMIC PROGRESS and expanding the frontiers of KNOWLEDGE, EQUALITY, justice and freedom." Commissioner Bengzon earlier thought that probably the last phrase "expanding the frontiers of" should have less value. For example, he felt that if we had already pointed out human liberation and social and economic progress, do we have to include equality, justice and freedom? So, we would like the reaction of the body on this.

MR. PADILLA. Madam President.

THE PRESIDENT. Yes.

MR. OPLE. I disagree with Commissioner Bengzon in that respect. I think the last phrase, "expanding frontiers of knowledge, equality, freedom and justice," just rounds off the sense of the entire paragraph, Madam President.

MR. VILLACORTA. Thank you.

THE PRESIDENT. Is there any other comment?

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I heard the phrase "total human liberation and development." May I suggest that instead of "total human liberation," we use MORAL, MENTAL, AND PHYSICAL DEVELOPMENT because those are the most important.

MR. VILLACORTA. Commissioner Nieva would like to comment on that.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. Madam President, precisely, the present interpretation of "total human development" is all encompassing – moral, intellectual, physical, cultural. The totality of man is really what is meant when we speak of "total human development." That is now an accepted interpretation.

MR. PADILLA. Yes, "total human liberation" are beautiful words but not so clear. I think the primary purpose of education is to inculcate moral virtues or even character formation, the expansion of intellectual faculties for learning and for logical reasoning and, of course, physical development. These are more concrete and clearer – moral, mental and physical. Of course, "total human liberation" are beautiful words but to the common man, these will not be understood without further explanation.

MR. BENGZON. Madam President.

MR. PADILLA. And if Commissioner Bacani were here, maybe he will ask, "Liberation from what?" Then we will add, "Liberation from social inequities, et cetera."

From my point of view, education inculcates and develops moral character so we can be good, peace-loving and energetic citizens, but we have to develop the mental faculties and, of course, the physical capability of the body. These would be more concrete. I have always understood that that is why we go to school, in addition to the instruction and education we receive from the family or the church to develop our moral, mental and physical faculties – the development of man. I hope the committee will consider it.

MR. BENGZON. Madam President.

MR. GUINGONA. With respect to the comment of Commissioner Padilla, aside from "MORAL, MENTAL

AND PHYSICAL," would he also like to consider "SOCIAL DEVELOPMENT"?

MR. PADILLA. That would be a consequence if we developed the moral, mental and physical faculties of man. He becomes not only a useful citizen but he will have social consciousness, nationalistic and patriotic sentiments. I do not agree that nationalism is better than patriotism. Instead of nationalism, I would prefer to say patriotism because love of country does not mean only its territory but its people. One may be nationalistic but he may not be totally patriotic; whereas one who is patriotic will be a nationalist whenever it means improving the nation and its people. I think patriotism is the highest virtue of a citizen.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. May I request Commissioner Nieva to take the microphone.

Did I hear the Commissioner right when she said that "total human development" means all those which Commissioner Padilla said?

MS. NIEVA. It does. It includes all faculties that make a man human.

MR. BENGZON. Yes. So, when we say "total human development," it is the development of the mind, the morals and all those attributes which Commissioner Padilla referred to. Am I correct?

MS. NIEVA. Yes. I agree entirely.

MR. BENGZON. When we say "human liberation," does that also mean liberation from ignorance and from poverty?

MS. NIEVA. Certainly, it does.

MR. BENGZON. And, therefore, shall we say that this is the modern way of expressing all the virtues that we have been talking about and all those that have been articulated by Commissioner Padilla?

MS. NIEVA. I definitely believe so, which is why we felt that by putting the phrase "total human liberation and development," we would be including all of these desirable and universal aspirations of man.

MR. BENGZON. The Commissioner does not believe so, but it is a fact, is it not?

MS. NIEVA. It is accepted, I think, in most documents of universal validity.

MR. BENGZON. Thank you.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. May I ask Commissioner Nieva a few questions?

When we say "human liberation and development," does that include patriotism?

MS. NIEVA. It cannot but include patriotism, because if one were a citizen of a country and he develops all virtues that makes a good citizen, then definitely, he has to have love of country.

MR. DE CASTRO. It also includes nationalism, pride and identity?

MS. NIEVA. I would think it includes all of these virtues.

MR. DE CASTRO. It also includes moral, mental, and physical attributes?

MS. NIEVA. Yes, it does.

MR. DE CASTRO. Thank you. May I then ask the committee this question. We are stating the purposes for which education is given priority. According to the Honorable Nieva, "human liberation and development" includes pride, identity, nationalism, patriotism, moral, mental and physical attributes. Are we not repeating the purposes for which education is given priority when we say pride, identity, patriotism, nationalism, etc.? They are all included in the phrase "human liberation and development."

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. The purpose of highlighting all the other attributes or the goals that have been expressed in this provision is really to stress the point that "human liberation and development" would lead to the improvement of the quality of life which is expressed in the terms "national unity," "nationalism," "equality," "justice," and "freedom." So, it is not to exclude all these goals of education, science and technology, arts, culture and sports.

MR. DE CASTRO. We are drafting a Constitution, Madam President. Does not the committee feel that it is redundant to mention all these "isms" – nationalism, patriotism, identity, pride, etc. – which are already included in "human liberation and development"? Is this not redundancy in a Constitution which is the framework of our government?

MR. GASCON. I shall try to answer. When we speak of "total human liberation and development," as Commissioner Nieva has expressed already, we seek to give priority to education, science and technology, arts and culture, and sports; it is the individual's liberation from ignorance, poverty, fear, and for his continued human development. Just as much as this is what we wish to encourage, we also have the social dimension, like in man's love for himself and for others, which is expressed in the social context through his love for his country – nationalism; the development also of the community of man – national identity and unity; and then towards common societal goals of knowledge, equality, justice and freedom.

MR. DE CASTRO. So, Commissioner Gascon has expanded the explanation of Commissioner Nieva, who is the author of "human liberation and development."

MR. GASCON. We have just clarified it.

MR. DE CASTRO. Does Commissioner Nieva now accept the explanation of Commissioner Gascon on human liberation and development?

MS. NIEVA. I do not think that there is a contradiction. What the committee wants to say is that we want to highlight the various aspects of human liberation and development in order to give greater emphasis to the virtues and the results that they would like to achieve.

MR. GASCON. For example, Commissioner Ople has presented an amendment to include social and economic progress. One would also say that it would be part of human liberation and development; and yet we see the virtue of putting this phrase in it to highlight not only the role that education, science and technology, arts and culture and sports play in the individual but also in the common societal goals and needs.

MR. DE CASTRO. I have another question of the committee. We are drafting a Constitution. Do we need to put the reasons why we would like to give priority to education?

MR. VILLACORTA. Madam President, Section 1 is an omnibus section comparable to the other omnibus sections in other articles; for example, the Article on Social Justice, which presents the philosophy for the entire article.

MR. DE CASTRO. The danger in an enumeration is that if we fail to enumerate any attribute which, of necessity, belongs to education, we will be prevented in putting such a thing because of the principle of *inclusio unius est exclusio alterius.* That is the danger actually of enumerating identity, pride, enhancing quality of life, et cetera; once we miss anything there, it is excluded. Why go to a list of the purposes for which education is to be given priority? Will it not be good for a Constitution to state: "The State shall give priority to education, science and technology, arts, culture and sports" instead of narrating the purposes for which education is given priority?

MR. VILLACORTA. After consulting the Acting Floor Leader, the committee would like to throw this particular question to the body.

MR. DE CASTRO. I am proposing that amendment to eliminate the purposes for which priority to education is given by the State.

MR. GASCON. Could the Commissioner please read his proposal?

THE PRESIDENT. So, how would Commissioner de Castro phrase Section 1?

MR. DE CASTRO. Section 1 will read: "The State shall give priority to education, science and technology, arts, culture and sports."

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. I was going to say that in order to accommodate the honorable Commissioner de Castro, maybe it could be expressed here as the sense of the committee and the Commission that although we have added the second sentence for purposes of highlighting, the enumeration contained therein is not necessarily exclusive.

THE PRESIDENT. We will throw it to the body.

MR. DE CASTRO. I just received information from the Honorable de los Reyes that the purposes mentioned here are covered in the Preamble and in the rights and obligations of the citizens. Why should we repeat all these and make a big book out of our Constitution?

MR. SARMIENTO. Madam President, we have extensively discussed the de Castro proposal. May we vote on the issue as suggested by the committee?

VOTING

THE PRESIDENT. The proposed amendment of Commissioner de Castro has not been accepted by the committee. Let us vote on that first, then on the section as proposed by the committee.

As many as are in favor of the proposed amendment of Commissioner de Castro, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 14 votes in favor, 17 votes against and 1 abstention; the amendment is lost.

MR. SARMIENTO. Madam President, may I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Is it on Section 1?

MR. SUAREZ. Still on Section 1, Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

We just would like to clarify a phrase, a beautiful expression, if I may borrow the phrase of Commissioner Padilla, and this refers to the last phrase reading: "Expanding the frontiers of knowledge, equality, justice and freedom." "Expanding the frontiers of knowledge" – that I can very well understand insofar as it relates to education, science, technology, arts, culture and sports. But will the committee please clarify the relation of education, science, etc. to the expansion in the frontiers of equality, justice and freedom? My understanding is that these undertakings like education, science, technology, arts, culture, except for sports development – which is physical in character – all have something to do with learning and knowledge. So, I am satisfied regarding the utilization or employment of the term "expanding the frontiers of knowledge." What I am trying to find out is, will the descriptive words "equality, justice and freedom " be appropriate in connection with giving priority to education, science and technology?

MR. VILLACORTA. Commissioner Bennagen will answer that question.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I thank Commissioner Suarez for the incisive question. In this section we indicated that the State shall give priority to education, science and technology, arts and culture. Essentially, these are the three major divisions of knowledge: humanity, social sciences and natural sciences, and as bodies of knowledge, they function to expand the frontiers of human capability which are framed within an expanding nature of justice and freedom. So, what is just in a slave society would be different from what is just in a capitalist society and so on, as society develops. We are saying, therefore, that the purposes for which the humanities, the social sciences and the natural sciences are harnessed would be to constantly expand these frontiers. It gives dynamism to the idea of human liberation and development in a social context with the human being considered as a species not just as an individual. It runs off, as pointed out earlier, these items that are identified. National unity is also an expansion of one's social relationship from the individual to the ethnic group to the nation, particularly because we have already enshrined the regionalization of certain regions. I think that is an important framework within which we relate as local governments and as autonomous regions.

MR. OPLE. Madam President, in connection with the question put forward by Commissioner Suarez and with the indulgence of the committee, may I just point out that education is always a quiet revolution especially in historically benighted areas where for the first time an elementary school is opened. It becomes revolutionary in the sense that hitherto oppressed and submerged classes for the first time, when they enter the threshold of a public elementary school, start the process of becoming equal with all the rest of society. There are many people who discovered the power of education to liberate right in their boyhood. I would not exempt Commissioner Suarez from that, but certainly in my case, who came from one of the poorest families in a remote barrio of Hagonoy, Bulacan, I thought that the greatest revolution that happened to me was when I entered the threshold of the public elementary school in my home barrio. In that sense, it is revolutionary. It expands the frontiers of equality, freedom and justice, and not merely of knowledge. It is, therefore, in this direct experience that I find a justification for including this last clause in the philosophical section which I call the flagship section, Section 1, Madam President.

MR. BENNAGEN. And then, Madam President, just to round it off, we are convinced that human struggles, whenever and wherever they occur, are activated by the yearnings for justice and freedom, whatever the forms are.

MR. SUAREZ. Thank you for the clarification.

THE PRESIDENT. Is Commissioner Suarez satisfied with the explanation?

MR. SUAREZ. Thank you, Madam President. We are satisfied that the ends of equality, justice and freedom would be satisfied with giving priority to education, science and technology, arts and culture, in the light of the explanations given by the committee and by the Honorable Ople.

Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Can we proceed now to a vote?

MR. SARMIENTO. Before voting, Madam President, may I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, I am proposing some amendments, but before doing that, I would ask the committee one question.

When the committee accepted the amendment of Commissioner Ople to include the word "EQUALITY," such that we now have "justice, EQUALITY and freedom," is it the intention of the committee to enshrine in this particular section the provision on the approved Preamble, regarding a regime of justice, freedom and equality? In short, this would now become partly the implementing principle.

MR. VILLACORTA. There was no such conscious attempt, but now that the Commissioner has mentioned it, the committee would like to look at it that way.

MR. DAVIDE. If the committee would like to view it that way, why do we not now make a complete provision here enshrining really what we prayed for in the Preamble, like truth, justice, freedom, equality, peace and love?

MR. BENNAGEN. May I say something?

There is an important consideration in the inclusion of "EQUALITY" here. So far, in spite of our fondest wishes as to the democratic character of education, in terms of its levelling potential, empirical studies show the reverse. Even in the Philippines, one recent study shows that education has, as a matter of fact, reproduced existing inequalities and, in some parts, even widened these existing inequalities. This is why in some of the provisions, we are suggesting other ways by which we might be able to "de-school," meaning, take schooling from the formal context into the informal arena to help redress these existing inequities that have not been responded to by the formal educational component.

MR. DAVIDE. Anyway, how about expanding the frontiers to include peace; that is, peace as a goal of the nation? Basically, as a matter of fact, truth is an aim of education; and knowledge must be based on truth.

MR. VILLACORTA. The committee accepts the amendment.

MR. DAVIDE. The two words – "TRUTH" and "PEACE"?

MR. VILLACORTA. Truth is knowledge. We are accepting "PEACE," Madam President.

MR. DAVIDE. So, "PEACE" is accepted?

MR. VILLACORTA. Yes, Madam President.

MR. DAVIDE. Thank you for that.

But my three other proposals are the following: Instead of saying "for the purpose of fostering," we just say, "TO FOSTER"; instead of "enhancing," "ENHANCE"; instead of "expanding," "EXPAND," so these would be stronger in effect.

MR. VILLACORTA. It is accepted, Madam President.

MR. DAVIDE. Thank you.

MR. BENNAGEN. Just one little question, Madam President.

Do I take it that we shall also include the word "love" in the amendment?

MR. DAVIDE. No, there is no need.

MR. BENNAGEN. Just "TRUTH" and "PEACE"?

MR. DAVIDE. Only "PEACE" was accepted by the committee.

MR. BENNAGEN. All right.

MR. DAVIDE. I will not insist on "TRUTH" nor "LOVE" because I really believe that these are all the foundations of everything here.

MR. BENNAGEN. Thank you, Commissioner Davide.

MR. SARMIENTO. Madam President, may I ask that Commissioner Rodrigo be recognized for his amendment on Section 1.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. My amendment, Madam President, is to delete the words "liberation and" from the phrase "total liberation and development," so that it will only read: "total human development."

I will give my reasons, Madam President.

THE PRESIDENT. Please proceed.

MR. RODRIGO. First of all, what is the meaning of "liberation"? Liberation from what?

THE PRESIDENT. From ignorance.

MR. RODRIGO. From ignorance, yes, but persons can be liberated also from so many other things. For example, what we call a "liberated woman" is one who is liberated from ordinary customs, even from religious teachings. A liberated woman does not mind "living in" with a man without the benefit of marriage. A "liberated woman" does not mind being seen going around with married men. So what is the meaning of this word "liberation" here? Besides, Madam President, this is something that will not be understood by our people. When the people in the barrio see "total human liberation," they will not know what it means. And then, I would not know how to translate this into Pilipino. And so, I think it is enough that we say: "total human development." I submit. So my proposed amendment is to delete the words "liberation and" from "total human liberation and development" so that it will only read "total human development."

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. I should like to propose an amendment to the amendment of Commissioner Rodrigo which I believe is good – by adding the word HARMONIOUS. *(Laughter)* I believe that a person can be intelligent and yet can become an intelligent criminal. Look at the case of Hitler. He was obviously an intelligent, smart person but he was an intelligent criminal. We want the total development of these faculties which were mentioned a while ago by Commissioner Padilla – moral, mental, intellectual. But if we do not develop these, Madam President, so that they can all become harmonious-harmonious to make the person totally and harmoniously developed, he can become, may I repeat, an intelligent criminal.

I happen personally to believe that the heart of education is the education of the heart. This means to say, a man's intellect must be so developed as to be harmoniously in consonance with his spiritual and moral development. So I am just wondering if we could at least add the word HARMONIOUS, Madam President. May I suggest this to Commissioner Rodrigo?

MR. RODRIGO. I accept the amendment to the amendment which shall now read "total human HARMONIOUS development" or "total HARMONIOUS human development."

MR. TINGSON. Thank you very much.

The Commissioner has accepted my amendment to his amendment, and I appreciate that.

MR. PADILLA. Madam President.

THE PRESIDENT. Does Commissioner Padilla have anything to contribute?

MR. PADILLA. Madam President, earlier, I suggested that instead of "total human liberation and development," we mention "MORAL, MENTAL AND PHYSICAL DEVELOPMENT" which is clearer. Now, when we say "total HARMONIOUS human development," this is almost as vague as saying "total human liberation and development." Why do we not make it simple and clear and say that education is moral, mental, intellectual, and physical development? I think that is clearer and that is what I have mentioned earlier, Madam President. I was going to request through Commissioner Nieva because it was not accepted by the committee, that we vote on my prior amendment.

MR. GARCIA. Madam President.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Madam President, can I speak against the amendment?

THE PRESIDENT. Whose amendment, Commissioner Garcia?

MR. GARCIA. Madam President, I would like to speak against the amendment presented by Commissioner Rodrigo as amended by Commissioner Tingson. I would like to speak in defense of "total human liberation and development" precisely because in education, there is at the moment in Third World countries a whole new idea of liberative education which is rather important. Paolo Fraire, for example, in his groundbreaking efforts to bring about educational efforts in Brazil and in Guinea-Bissau in Africa, has come up with the whole theory that liberative education is important to allow people to participate in their own liberation from ignorance, from fear, from want, from poverty as part of their educational experience. This is in contrast to the banking method of education where normally we simply accumulate facts and information, rather than formation that makes one a participant in his own liberation. The loss of fear, the concept of the loss of fear is very important here, where education must lead to liberation of the person. And so, as to the formulation of the committee on human liberation and development, I would like to speak in favor of the original formulation.

THE PRESIDENT. Thank you.

Commissioner Aquino is recognized.

MS. AQUINO. Madam President, may I request the committee chairman to read the amended section, together with all of these inclusions and insertions.

MR. VILLACORTA. Yes. This is based on the accepted amendments: "The State shall give priority to education, science and technology, arts, culture AND SPORTS to foster NATIONALISM, NATIONAL UNITY, TOTAL HUMAN LIBERATION AND DE-

VELOPMENT, ACCELERATE SOCIAL AND ECONOMIC PROGRESS, and expand the frontiers of KNOWLEDGE, EQUALITY, justice, freedom and PEACE."

MS. AQUINO. Madam President, I am constrained to seek a reconsideration of the vote of the amendment of Commissioner de Castro. At the rate the committee has been very liberal in accommodating concepts, there is no way that we can put a brake on very positive and nondebatable concepts that speak of motherhood, love, unity and nationalism. I have always believed that the fixed star in the constellation of education is the acquisition of knowledge for freedom, and freedom means the discovery of truth. We engage in freedom not to commit mistakes but to discover truth such that I would much rather that we recast the section again to confine it within this fixed star.

THE PRESIDENT. Did Commissioner Aquino vote in favor of the de Castro amendment?

MS. AQUINO. I did, Madam President, in favor of the majority present.

MR. SARMIENTO. On the basis of my colleague's suggestion, may I ask that Commissioner Bernas be recognized, Madam President.

THE PRESIDENT. Commissioner Bernas, is this the last word?

FR. BERNAS. Madam President, I voted in favor of the de Castro amendment; I am asking for a reconsideration.

THE PRESIDENT. Is Commissioner Bernas asking for a reconsideration also?

FR. BERNAS. Yes, Madam President.

MR. GASCON. Madam President, those who can ask for a motion for reconsideration are those who voted with the committee. Commissioner Aquino did vote with the committee.

FR. BERNAS. If Commissioner Aquino is qualified to raise the issue, then I support her.

MS. AQUINO. Madam President, I voted with the committee and that was the majority.

MR. GASCON. That is right.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 12:30 p.m.

RESUMPTION OF SESSION

At 12:48 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, considering that the committee is still formulating the controversial Section 1, may I move for the suspension of the session until two-thirty this afternoon.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 12:49 p.m.

RESUMPTION OF SESSION

At 3:17 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we continue the consideration on the Article on Education.

THE PRESIDENT. The honorable chairman and members of the committee will please occupy the front desk. Before we suspended the session, we were discussing Section 1.

MR. SARMIENTO. Madam President, may I ask that the chairman of the Committee on Human Resources be recognized?

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, I think there was a motion for reconsideration of Commissioner Aquino.

MR. SARMIENTO. Before we suspended the session this morning, the committee was trying its best to reformulate Section 1, after it had received so many proposed amendments.

MR. NOLLEDO. Madam President, may I be recognized?

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Yesterday, I made a reservation to interpellate the members of the committee, including the chairman, on the last topic of the report. Apparently, my name disappeared. Instead of proceeding with the amendments, Madam President, may I be permitted to interpellate the members of the committee? I will be the last interpellator, Madam President, so the Floor Leader can move for the closing of the period of interpellations.

THE PRESIDENT. On what particular part, Commissioner Nolledo?

MR. NOLLEDO. The last, on "ARTS AND CULTURE," Madam President.

THE PRESIDENT. Has there been no interpellation yet on "SCIENCE AND TECHNOLOGY"?

MR. SARMIENTO. Madam President, with due respect to Commissioner Nolledo, we are reserving "ARTS AND CULTURE, SCIENCE AND TECHNOLOGY" for tomorrow, because we are still on "EDUCATION and LANGUAGE."

THE PRESIDENT. It was also the understanding with the committee that we will finish the interpellation and debate, and then proceed to the period of amendments with respect to "EDUCATION and LANGUAGE." Then we will accept reservations. The turn of Commissioner Nolledo will come when we open the debates.

MR. NOLLEDO. Thank you.

I yield, Madam President.

THE PRESIDENT. Thank you.

MR. SARMIENTO. Madam President, may I ask that Commissioner Aquino be recognized.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, may I request Commissioner Bengzon to clarify the parliamentary situation.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, if the body remembers, the Commission recessed this morning precisely to ask all Commissioners who had amendments to present the same. This was done – the committee accepted or rejected some of the amendments that were presented and came up with the new section. This new Section 1 contained the various amendments, some of which were the amendments of Commissioner Nieva regarding total human liberation and development.

After that came the amendment of Commissioner de Castro which put a period (.) after the word "SPORTS," eliminating all the other amendments that were introduced and accepted by the committee. That was voted down, but there were so many amendments that came in thereafter and the section started to expand more and more until Commissioner Aquino, who voted against the amendment of Commissioner de Castro which was then the majority, came up and proposed a move for a reconsideration.

If the body decides to vote in favor of the reconsideration of Commissioner Aquino, that would mean the elimination of all the amendments that were accepted by the committee. And then, thereafter, Commissioner Aquino will present a new set of amendments to expand the amendment of Commissioner de Castro.

That is the parliamentary situation, Madam President.

THE PRESIDENT. Yes, but the proposed amendment of Commissioner de Castro was voted down; it was disapproved. I understand that the amendment of Commissioner Aquino is something else.

May we be clarified on that, Commissioner Aquino?

MS. AQUINO. Madam President, if the motion for reconsideration is sustained, am I precluded from introducing any further amendments after the amendment of Commissioner de Castro?

MR. DE CASTRO. I do not believe so, Madam President.

MR. BENGZON. I do not believe that Commissioner Aquino is precluded, because she is precisely seeking a reconsideration of Commissioner de Castro's amendment. If that is approved, then Commissioner de Castro's amendment is revived, and thereafter, Commissioner Aquino can present amendments to the amendment.

MR. DE CASTRO. Amendment to the amendment.

THE PRESIDENT. Yes, but we would like to be clarified. My reading of this is that, if Commissioner Aquino desires to add certain words after the word "SPORTS" where Commissioner de Castro ended, she is free to present an amendment to the article, but she does not have to ask for a reconsideration of the action of the body.

MR. BENGZON. We submit to the ruling of the Chair.

MS. AQUINO. So, should it be in the nature of a motion to delete?

THE PRESIDENT. The amendment of Commissioner de Castro was to put a period (.) after the word "SPORTS" on the second line, so that the sentence will read: "The State shall give priority to education, science and technology, arts, culture AND SPORTS."

MS. AQUINO. Madam President, may I be guided on this? My only desire is to clear the deck after the word "SPORTS."

THE PRESIDENT. Would Commissioner Aquino wish to add some other words?

MS. AQUINO. After the word "SPORTS," clear the deck or delete all of the amendments that have been incorporated and accepted by the committee and reopen it for new concepts.

THE PRESIDENT. That is why Commissioner Aquino is free to propose her own amendment.

MR. RODRIGO. Madam President, may I give my humble opinion on this?

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. If we vote in favor of the motion for reconsideration, that means the amendment of Commissioner de Castro is revived. It does not mean, however, that we have already approved that amendment of Commissioner de Castro. It only means that we will vote on it again. So, the amendment is revived and that is when Commissioner Aquino can propose an amendment to the amendment of Commissioner de Castro.

THE PRESIDENT. Yes, but Commissioner Aquino is not qualified to move for a reconsideration of the amendment of Commissioner de Castro because she voted with the committee.

MR. RODRIGO. No, she voted with the majority.

THE PRESIDENT. Precisely.

MR. RODRIGO. She voted with the majority, so she can ask for reconsideration.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, I think it is not necessary for Commissioner Aquino to move for a reconsideration. She can just proceed and present her own amendments.

THE PRESIDENT. Then it looks very simple.

Commissioner Aquino can submit her proposed amendment and that settles the matter.

MR. RODRIGO. Madam President, then she has to withdraw her motion for reconsideration first.

THE PRESIDENT. The Chair has refused her motion for reconsideration because it is not a proper motion for reconsideration.

MR. RODRIGO. Why, Madam President?

THE PRESIDENT. Does the Gentleman desire to appeal the ruling of the Chair?

MR. RODRIGO. No, I do not, Madam President. I will not appeal. I just want to state that Commissioner Aquino voted with the majority, with the group that rejected the amendment of Commissioner de Castro. So, she is entitled to move for reconsideration according to our Rules.

MR. BENGZON. Madam President, may I raise a point of order?

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. We have already submitted to the ruling of the Chair, and I think the Chair has ruled that the motion for reconsideration is not proper. And so be it.

May we request that the Chair recognize Commissioner Aquino to present her amendment.

THE PRESIDENT. Commissioner Aquino is recognized to present her amendment to Section 1.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

Is Commissioner Aquino now withdrawing her motion for reconsideration?

MS. AQUINO. I am submitting to the ruling of the Chair.

MR. DE CASTRO. Madam President, the one who voted for the committee this morning will move for a reconsideration of my amendment this morning.

THE PRESIDENT. I will explain my point further. When a motion for reconsideration is submitted, this means that the movant is in favor of the proposed amendment.

MR. DE CASTRO. Yes, Madam President.

THE PRESIDENT. But Commissioner Aquino is not. She desires only to add more words. So, it is not exactly on the point of the Gentleman's amendment.

MR. DE CASTRO. I do not wish to insist, Madam President.

THE PRESIDENT. If Commissioner de Castro can find one Member who voted in the majority but is changing his mind and would like to support the Commissioner's amendment to put a period (.) after "SPORTS," that would be in order.

MR. DE CASTRO. Thank you, Madam President. I do not wish to contradict the move of the Chair but there is a pending motion by Commissioner Aquino for reconsideration. The fact that she will put additional words to my amendment this morning is not in the record yet. What is in the record is her motion for reconsideration.

MS. AQUINO. Madam President, in order to conform with the ruling of the Chair, I am hereby withdrawing the motion for reconsideration and in lieu of that, I present an amendment by substitution, if that is in order.

THE PRESIDENT. Please proceed.

MR. DE LOS REYES. Madam President, before the amendment of Commissioner Aquino, may we now hear how the section reads, as amended.

THE PRESIDENT With all the amendments?

MR. DE LOS REYES. Yes, Madam President.

MR. VILLACORTA. Would Commissioner de los Reyes want me to read the section, as amended by Commissioner de Castro, or as we had last proposed it?

MR. DE LOS REYES. As the committee had accepted all these amendments.

MR. VILLACORTA. Madam President, let me read Section 1, as amended: "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM, TOTAL HUMAN LIBERATION AND DEVELOPMENT, ACCELERATE SOCIAL AND ECONOMIC PROGRESS and EXPAND the frontiers of KNOWLEDGE, EQUALITY, justice, freedom AND PEACE."

The committee, however, in its caucus over lunch, had come up with a simpler Section 1.

MR. DE LOS REYES. I thought I heard the word "harmonious."

MR. VILLACORTA. Which we have not presented yet.

THE PRESIDENT. Let us listen to the proposed amendment of Commissioner Aquino.

MS. AQUINO. Madam President, after the word "SPORTS," I propose to insert the phrase "TO FOSTER NATIONALISM AND PROMOTE TOTAL HUMAN DEVELOPMENT," such that the section will now read, as proposed: "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM AND PROMOTE TOTAL HUMAN DEVELOPMENT."

MR. GASCON. We believe Commissioner Ople has an amendment to the amendment of Commissioner Aquino.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I would like to suggest strongly that the linkage to social and economic progress be retained elsewhere in this draft article. We keep talking about priority for education, et cetera, but the only test of priority is the budget. As I pointed out earlier, economic planning bodies and budget ministries will better appreciate our call for a higher priority if we do build in the sense of education by improving the quality of the human population, accelerating social and economic progress. And I think this is the context in which we are seeking a higher priority for education and the related fields.

I am in agreement about abbreviating this section, but not at the expense of the strongest budgetary argument for a priority for education by linking it to the improvement of the quality of the human population so that we also accelerate social and economic progress.

MR. VILLACORTA. Madam President, would Commissioner Aquino, who has just presented an amendment, accept an amendment to her amendment, which is now the position of the committee; and I shall read: "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM, ACCELERATE ECONOMIC AND SOCIAL PROGRESS AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT."

Would Commissioner Aquino accept the amendment?

MS. AQUINO. I would accept that.

Incidentally, the original amendment is coauthored by President Muñoz Palma, Commissioners Monsod, Guingona, Bengzon and Nieva.

Just one query, Madam President. What makes "total HUMAN LIBERATION" distinct and different from "TOTAL HUMAN DEVELOPMENT"? I have always appreciated liberation in the context of human development.

MR. VILLACORTA. Madam President, during the caucus, it was emphasized by several members of the committee that liberation is more than development because it is liberating one's self from evil, want, greed and other negative forces of society, and is a prerequisite to development.

MS. AQUINO. I ask this because the way the Commissioner discusses it now, I begin to appreciate it in the concept of universal emancipation which, I think, essentially would be the proper focus of total human development. Likewise, I have reservations because the concept of human liberation is very theological. Without questioning the acceptability of that concept in the Constitution, I doubt very much its acceptability in jurisprudence and law.

MR. VILLACORTA. On the contrary, Madam President, it is not mainly a theological concept. It is used by the United Nations in many of its documents and also by the Vatican not only in its theological documents but even in its social pronouncements.

MS. AQUINO. Would it satisfy the committee if we agree to the spirit and intent of that amendment to resolve it in favor of the adoption of a settled and common usage which is human development?

MR. VILLACORTA. I think Commissioner Tan would like to say something before the committee decides on that, Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. I have to disagree with my good friend, Commissioner Aquino. Development is a prerequisite to liberation. Liberation is the goal where we become free from the burden of evil, greed, sloth, hunger and want. It is a goal; it is a very beautiful word which is not theological but sociological, that is why the Pope made use of theology of liberation. Therefore, we always say "development and liberation." If we just say "development," it connotes dependency, colonialism and parasitism. It is a negative word sociologically.

MS. AQUINO. Madam President, I take no exception to human liberation as a universal desire. But I would caution the body and request a little measure of mental discipline in the sense that our concern here is education.

MR. VILLACORTA. Not just education, Madam President, but also science and technology and arts and culture. All these areas of concern, including sports, would include liberation as one of its goals. The liberative aspect of all these areas of concern is very important, as we will see later on in the sections on science and technology and arts and culture.

MR. GARCIA. Madam President, can I have a few thoughts with Commissioner Aquino on this point of liberation.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Madam President, I think liberation is important in the context of education. That is a liberating education. Allow me to share a few thoughts which I scribbled during the break.

Liberating education frees both the teacher and the student. I want to put this in the context of education and specifically of both the classroom and the nonclassroom situations. In fact, it allows them to be coparticipants in the common search for truth. The class becomes an experience and a meeting place where knowledge is sought and not where it is transmitted. It is a practice in liberty precisely because it frees the educator and no less than the educatees from the twin thralldom of silence and monologue. Both partners are liberated as they begin to learn – the want to know one's self as a being of worth, notwithstanding the stigma of illiteracy, poverty or technological ignorance and the capability to dialogue in spite of the straight jacket imposed on the role of the educator as one who knows. What is essential in this experience is the ability to dialogue, to have a real exchange of ideas and options and finally, to reflect and act in order to transform. There is no room here for imposition or manipulation, and there is no premium on propaganda or skill and persuasion. Liberating education demands that people be willing participants in the dialogue on authentic subjects and be equally capable of writing their own history.

I think total human liberation, both in its global context and in the context of education and the relationship between teacher and thought, is this whole idea of freeing the resources of the human person which education precisely provides. And I think the committee has expressed it very well during the interpellations as to the freedom from fear, ignorance and want.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. In the committee discussion this lunch break, we decided to eliminate some of the terms with the understanding that total human liberation and development would encompass such values as knowledge, equality, justice, freedom and peace. So we thought this will be the phrase that would now capture the essence of all these goals, not just development but total human liberation, the process that leads to the higher goal which is really development of people.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Madam President, may I know how the amendment as amended now reads.

MR. VILLACORTA. The amendment as amended now reads: "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM, ACCELERATE ECONOMIC AND SOCIAL PROGRESS, AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT."

MR. RODRIGO. May I propose an amendment, Madam President, to delete "LIBERATION AND." I proposed this before we adjourned but we have not voted on it. We got stalled because of an amendment to my amendment proposed by Commissioner Tingson which is to add "HARMONIOUS." But now I will revive my proposed amendment to delete the words "LIBERATION AND" so that that last phrase would now read: "TOTAL HUMAN DEVELOPMENT." I have discussed this enough, so I think we can vote on it.

THE PRESIDENT. How about the word "HARMONIOUS"?

MR. GASCON. Madam President, there is no word "HARMONIOUS"; there is no proposed amendment.

MR. RODRIGO. So there is no amendment to add "HARMONIOUS."

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. Madam President, we feel that this discussion on liberation has been extensively discussed and we agree with Commissioner Rodrigo to put his amendment to a vote.

THE PRESIDENT. Before we take a vote, may we have the new formulation as proposed by the committee.

MR. GASCON. The new formulation reads: "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM, ACCELERATE ECONOMIC AND SOCIAL PROGRESS, AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT."

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Since I initiated the addition of the word "HARMONIOUS" and understanding that "HUMAN DEVELOPMENT" would take in the meaning that I have in mind, I now withdraw my proposal for the use of that word. However, I endorse the deletion of the word "LIBERATION" which according to Commissioner Rodrigo is unnecessary.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President. Before we vote, may I ask the committee a few questions on the phrase "ACCELERATE ECONOMIC AND SOCIAL PROGRESS." Of course, we have not yet taken the Article on Declaration of Principles and State Policies, but the acceleration of economic and social progress is included in the committee report of said article. Even nationalism, patriotism and so on are included in the Article on Declaration of Principles.

Section 5 of the Article on Declaration of Principles states:

> The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the social, economic and political conditions of the people;

Section 7 states:

> The prime duty of the State is the promotion and establishment of a socio-political and economic system that will insure the independence of the nation and aims to secure for the people the benefits of full employment, a high standard of living, equality in economic opportunities, security in old age, etc;

Section 8 states:

> The State shall intensify efforts to promote social justice and in the pursuit of national development objective to this end, Congress shall give highest priority to the enactment of measures designed to reduce economic and political inequalities, including measures to regulate the acquisition, ownership, use, and disposition of property, as well as to encourage self-reliant, socio-political and economic structures; and

Section 10 states:

> The State recognizes the vital role of the youth in nation-building and shall promote their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in the affairs of the nation.

In short, Madam President, I would like to show that anything that fosters nationalism, accelerates economic and social progress and promotes total human development is contained in the proposed Article on Declaration of Principles. Therefore, to me there is no necessity for its continuous repetition in our Constitution which shall form the framework of our government.

Thank you, Madam President.

MR. TADEO. Madam President.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Madam President, ang ibig pong sabihin ng political, economic and cultural system ay ang buong social system, kaya puwede na po nating alisin ang salitang "ECONOMIC."

MR. GASCON. Madam President, is that a proposed amendment by Commissioner Tadeo? We will decide first on the Rodrigo amendment before we go to Commissioner Tadeo's proposed amendment.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, I wanted to say, in reply to the points just made, that it is true some of these concepts appear in the Article on Declaration of Principles. But we also know that words and terms can develop new and sharper meanings when they are placed in new juxtapositions to emphasize certain jugular links between objectives. Therefore, I see no superfluity and redundancy in the committee's version.

With respect to the deletion of the word "ECONOMIC" as suggested by Commissioner Tadeo, I agree with him since the words "SOCIAL PROGRESS" are understood to encompass social, economic and political progress.

Thank you, Madam President.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I remember that Commissioner Romulo was stressing on the word "knowledge," because education is to impart knowledge to the students, and for the students to imbibe knowledge.

There is no mention of "knowledge" here, and I also said that education should inculcate and foster moral, mental and physical development. But as the provision stands, it seems that it is centered on nationalism: foster nationalism. How can we have sound nationalism unless the students have knowledge – they have moral, intellectual and physical development?

And instead of the word "NATIONALISM," I would suggest "PATRIOTISM" because it is not always enough to be totally nationalistic. It may not always be for the greater good of the greatest number. But the word "PATRIOTISM" is the highest virtue of citizenship.

Will the committee accept that after the word "SPORTS," we add a period (.) and the following: "THE GOALS OR THE OBJECTIVES OF EDUCATION ARE TO IMPART KNOWLEDGE, TO FOSTER MORAL, MENTAL AND PHYSICAL DEVELOPMENT TO FOSTER OR INSTILL PATRIOTISM." I have no objection to inserting "SOCIAL AND ECONOMIC PROGRESS." In fact, I have always been insisting, even in the Preamble, to insert the word "PROGRESS" after "PEACE."

MR. BENGZON. May I raise a point of order, Madam President?

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. There is on deck now the motion to delete the word "LIBERATION," and the point of order, Madam President, is that this should be voted upon first before we talk of deleting any other terms such as "ECONOMIC" or changing "NATIONALISM" to "PATRIOTISM."

So I move, Madam President, that we first vote on the deletion of the word "LIBERATION." Thereafter, we can take the other amendments.

MR. PADILLA. Madam President, the word "LIBERATION" comes later.

MR. BENGZON. But that is the one on deck, Madam President.

MR. PADILLA. My amendment is a prior amendment.

RULING OF THE CHAIR

THE PRESIDENT. What the Chair believes is that we have the Aquino amendment which is to add: "TO FOSTER NATIONALISM AND PROVIDE TOTAL HUMAN development " without the word "LIBERATION." I was thinking that if we put this to a vote and this is disapproved, then we go back to the formulation of the committee. That is why we asked the committee to also formulate so that the body will have an alternative.

MR. GASCON. Madam President, we presented the committee's proposal to Commissioner Aquino which she accepted but with some reservations on the word "LIBERATION," which led to Commissioner Rigos' motion to delete said word.

THE PRESIDENT. May we ask Commissioner Gascon whether or not Commissioner Aquino is agreeable to this formulation.

MR. GASCON. Except for the word "LIBERATION," Madam President. She posed some questions on the legal implications of the word "liberation" which led to Commissioner Rodrigo's motion to delete the words "LIBERATION AND," but the formulation was accepted by Commissioner Aquino.

MR. RODRIGO. Madam President, I think the parliamentary situation now is for this body to vote on my amendment to delete the word "LIBERATION AND."

THE PRESIDENT. What is the pleasure of the committee?

MR. VILLACORTA. We will throw the issue to the body.

THE PRESIDENT. There are two issues, the entire formulation and Commissioner Rodrigo's motion to delete "LIBERATION AND."

MR. RODRIGO. The situation, Madam President, as I see it is this: There is a proposed amendment by Commissioner Aquino and the committee proposed an amendment to her amendment. She has not accepted the committee's amendment to her amendment. Then I stood up to propose an amendment to the committee's amendment. So I think we should vote on my proposed amendment first; and, depending on the action of the House on this, we can vote on the amendment of the committee, or we can ask Commissioner Aquino whether or not she accepts the amendment to her amendment proposed by the committee. And after that, we vote on the amendment proposed by Commissioner Aquino, as amended.

THE PRESIDENT. May we know the comment of Commissioner Aquino because there are conflicting reports on her proposed amendment.

MS. AQUINO. Madam President, I, together with the coauthors, accept the committee amendment to my amendment, but we would rather submit the amendment of Commissioner Rodrigo to delete the words "LIBERATION AND" to the decision of the body. So, Section 1 as proposed would now read: "The State shall give priority to education, science and technology, arts, culture AND SPORTS, TO FOSTER NATIONALISM, ACCELERATE ECONOMIC AND SOCIAL PROGRESS AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT." The subject of the amendment of Commissioner Rodrigo is to delete "LIBERATION AND."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I rise for a parliamentary inquiry. The addition of the phrase "human liberation and development" was earlier approved as a committee amendment pursuant to a proposal by Commissioner Nieva.

THE PRESIDENT. Was that voted upon, Commissioner Davide?

MR. DAVIDE. Yes, Madam President. Would it be proper for the committee to introduce it as an amendment to the proposed amendment of Commissioner Aquino? And, secondly, Commissioner Aquino accepted that amendment, but there is now a proposed amendment by Commissioner Rodrigo on the amendment presented by the committee. That would be a third degree amendment. But basically my problem is whether or not it is proper for the committee to introduce by way of an amendment to an individual amendment its own committee recommendation.

MR. VILLACORTA. Just for a clarification, Madam President. The original recommendation which was presented by the committee this morning included the phrase "expanding the frontiers of knowledge, equality, justice, freedom and peace," which we deleted because it is already contained in the phrase "TOTAL HUMAN LIBERATION AND DEVELOPMENT."

MR. DAVIDE. Madam President, since the committee has its own modification which came up this afternoon, I think we should first vote on whether or not to accept this modification. Otherwise, it would be a clutter of amendments which have never been acted upon yet.

THE PRESIDENT. That is also the thinking of the Chair. How can we delete a word from a section that has not been even acted upon? To me it is basic; it is common sense.

MR. SUAREZ. Madam President, may I be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

SUSPENSION OF SESSION

MR. SUAREZ. Thank you, Madam President. I am sorry, but I am still looking for the beef in this constitutional hamburger. So may I ask for a suspension of the session so that we can thresh out the parliamentary situation.

THE PRESIDENT. The session is suspended.

It was 4:00 p.m.

RESUMPTION OF SESSION

At 4:10 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. SARMIENTO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. SARMIENTO. The parliamentary situation is: We have this committee amendment which reads: "THE STATE SHALL GIVE PRIORITY TO EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS TO FOSTER NATIONALISM, ACCELERATE ECONOMIC AND SOCIAL PROGRESS AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT."

Now we have the Rodrigo amendment deleting "LIBERATION AND," so before we go to constitutional hamburger and adventurism, may we vote on the Rodrigo amendment.

THE PRESIDENT. Is that the pleasure of the committee?

MR. VILLACORTA. Yes, Madam President.

MR. RODRIGO. Madam President, I think some of the Members are still in the lounge. In fairness to them, I think we should ring the bell.

THE PRESIDENT. The request is granted.

MR. RAMA. Madam President, before we vote on the Rodrigo amendment, may we be clarified on whether or not the word "LIBERATION" includes the concept of the theology of liberation which is quite popular in South America.

MS. ROSARIO BRAID. No, it is more encompassing than the theology of liberation. It means social, economic and cultural liberation. When we refer to education, it means freeing him from dogma and authoritarianism: giving him more options to choose and enabling him to communicate freely. These are all the concepts of liberation – reducing dependency, promoting dialogue and equality. The theology of liberation may be explained by Commissioner Rigos.

MR. GASCON. We did not consider the theology of liberation when this total human liberation concept came in. In act, the reason why we deleted the phrase "expand the frontiers of knowledge, equality, justice, freedom and peace" is that we felt the phrase "PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT" encompasses it.

MR. RAMA. So it does not include the concept of the theology of liberation. Could the committee members confer among themselves so that they would have a categorical answer whether or not it includes the concept of the theology of liberation?

REV. RIGOS. Madam President, I think Sister Christine Tan stated a while ago that the phrase does not include the theology of liberation. I would like to say that even if we include that we should not be ashamed of it. It is a good theology and if it is properly understood, we should accept it. However, if the Commissioner is afraid of some negative understanding of the theology of liberation, it might be reassuring if we say it does not include.

MR. RAMA. No, it is not the question of being afraid. I just want to clarify this matter because earlier the chairman of the committee was quoting the Pope with respect to this new theory or concept on education and, if I understand, the Pope frowns upon the theology of liberation.

MR. VILLACORTA. Just for clarification. I did not quote the Pope; I think somebody else did.

MR. RAMA. Yes, somebody in the committee.

MR. GASCON. We made mention that the term "LIBERATION" is being used in the United Nations documents, in socio-pastoral letters of the Vatican and among other things. In fact, Commissioner Tan said it is a sociological term, not a theological term.

MR. ABUBAKAR. Madam President, we must use the term to encompass the whole Filipino people. The whole Filipino people are not Protestant, Catholic or what. There are free thinkers here. There are also Muslims here. So, let the word be understood in the concept of universal application, not in its religious connotation or on the fact that this has been used by the Pope in his sermons and all that. This is for the entire Filipino people and the whole Filipino nation is not only composed of Catholics. There are unbelievers or atheists and Muslims. We should encompass them all.

MR. GASCON. Yes, we totally agree with the Commissioner.

MR. ABUBAKAR. Since this term is said so by the Pope, then there is no place here for the unbelievers and for the Muslims. So, if we are going to make the Constitution a Constitution of the Filipino people, let us use a word that is applicable to a person as a human being not by virtue of whether or not he belongs to one sect or group.

MR. GASCON. Thank you.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Madam President, may I just add a few words on the theology of liberation. There has been an in-depth study by different kinds of seminaries in America and even in the Philippines on the subject of liberation theology. Unfortunately, it has been a very controversial subject. There are those who favor both the liberal and conservative sides, and there are those who oppose it violently. The word "liberation" has also implications in the political usage of the word. If we can help it, let us not put controversial phrases and words in our Constitution to make the common people of our country understand our work better.

Thank you, Madam President.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. Madam President, I do not know if this is in order but I received a phone call from Commissioner Bacani who is my cosponsor for this total human liberation and development. I just informed him that this matter was the center of the storm of debates and controversies and he said he wished he would be here. But if it would help allay the fears and the doubts of those who think that this has anything to do with communism or extreme ideologies, this integral or total human liberation and development has been stressed over and over again by the past two holy Fathers, Pope John Paul I and Pope Paul VI.

THE PRESIDENT. That is why they are objecting to that, Commissioner Nieva.

MS. NIEVA. There is no need to stress that point. I am just saying this as an argument because the Commissioner said it will be too late tomorrow. So, if I could just add that this is an appeal raised by Pope Paul VI and by the present Holy Father that this integral or total human liberation and development is an aspiration and a goal we should seek for all the people so that they may be liberated from all kinds of oppression, sufferings and inequalities. So, this is just the context why we have introduced this goal or aspiration of total human liberation and development.

MR. GASCON. Madam President, we would also like to clarify further that this is not an ecclesiastical term or a Catholic term. This phrase "total human liberation and development" is an accepted secular term.

MS. ROSARIO BRAID. Yes, as a matter of fact, this is found in several Constitutions, as well as in many United Nations documents.

MR. GASCON. We are ready now to vote on the proposed amendment of Commissioner Rodrigo.

VOTING

THE PRESIDENT. As many as are in favor of the Rodrigo amendment to delete the words "LIBERATION AND" between the words "HUMAN" and "DEVELOPMENT," please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 15 votes in favor of the proposed amendment, 17 against, and 1 abstention; the amendment is lost.

So, we keep the words "LIBERATION AND." Can we proceed now to vote on the whole section as submitted by the committee?

MR. SARMIENTO. Yes, Madam President.

May I ask the chairman of the committee to read the whole section.

MR. VILLACORTA. Madam President, Section 1 reads: "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM, ACCELERATE SOCIAL AND ECONOMIC PROGRESS AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT."

MR. OPLE. Madam President, by prior arrangement with the committee, may I ask the committee's permission for a minor amendment concerning the clause "SOCIAL AND ECONOMIC PROGRESS." I had previously agreed to delete "AND ECONOMIC" and reword this to become "SOCIAL PROGRESS AND EQUALITY."

MR. GASCON. Would the Commissioner not agree with us that "EQUALITY" could be understood as part of the total human liberation and development, as we have explained and instead, we just reword it to become "SOCIAL PROGRESS"?

MR. OPLE. Yes, I could agree with the greatest possible reluctance to the omission of "EQUALITY," if the committee so requires.

MR. VILLACORTA. In other words, it should read: "ACCELERATE SOCIAL PROGRESS" only. It is all right.

MR. GASCON. Madam President, this is the Ople amendment. He is making an amendment to his own original amendment. Instead of retaining the words "ECONOMIC AND SOCIAL PROGRESS," he proposes to delete the words "ECONOMIC AND" because it is already a part of "SOCIAL PROGRESS."

THE PRESIDENT. So, the phrase will read: "ACCELERATE SOCIAL PROGRESS"?

MR. OPLE. Yes.

MR. VILLACORTA. The committee accepts that minor amendment, Madam President.

MR. OPLE. Thank you, Madam President.

THE PRESIDENT. The committee has accepted the amendment.

Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

Commissioner Padilla is recognized first. He was ahead.

MR. PADILLA. I propose to substitute the word "NATIONALISM" with "PATRIOTISM."

MR. VILLACORTA. We regret that the committee cannot accept that amendment for reasons we had already mentioned.

MR. PADILLA. Then I ask for a vote by the body.

I do not believe in the statement that nationalism is over and above patriotism. I do not believe that nationalism is a higher virtue than patriotism. I am firm in my belief that patriotism is the highest virtue of a citizen.

THE PRESIDENT. Is Commissioner Padilla insisting on his amendment?

MR. PADILLA. Yes.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. In line with the amendment of Commissioner Padilla, may I ask the committee if the word "NATIONALISM" in Section 1 is the same as the word "nationalism" in Section 2 (a) which states: "All educational institutions shall inculcate nationalism."

MS. ROSARIO BRAID. The committee has decided to delete the word "nationalism" on page 2, if it will be accepted in the first section. Therefore, we will only mention the word "nationalism" once. So when we go to page 2, Section 2 (a), we will delete "nationalism."

MR. DE CASTRO. But I still believe that the word "patriotism" will be a better and broader term than "nationalism." So as I understand from the committee, the word "nationalism" on line 15, page 2 will be eliminated. Is that correct?

MS. ROSARIO BRAID. Yes.

MR. DE CASTRO. Thank you.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. With due respect to our Vice-President, may I object to his proposal that we use "patriotism" instead of "nationalism." Yesterday, I shared with the body our definition of "nationalism." We said that Filipino nationalism is more than patriotism. It is more than love of land and people, loyalty to our flag and our country and readiness to sacrifice personal interest for the common good. This was the definition given to us by Senator Diokno. However, we have this definition of nationalism by Recto who said that it is a devotion to or an advocacy of national interests or national unity and independence, zealous adherence to one's own nation or to its principles. So with that definition, I submit that we use "nationalism" instead of "patriotism."

MR. PADILLA. Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I propose an amendment to the amendment of Commissioner Padilla? I propose to retain "NATIONALISM" and incorporate the word "PATRIOTISM." So, the amendment will be both "PATRIOTISM AND NATIONALISM."

MR. PADILLA. If we put "PATRIOTISM" first, I will agree.

MR. DAVIDE. Yes. It should be "PATRIOTISM AND NATIONALISM."

THE PRESIDENT. Is that acceptable?

MR. VILLACORTA. That amendment is acceptable to the committee.

THE PRESIDENT. What does the committee say?

MR. VILLACORTA. The Davide amendment to the Padilla amendment is acceptable to the committee.

MR. PADILLA. Thank you.

THE PRESIDENT. The committee has accepted the amendment.

Is there any objection? *(Silence)* The Chair hears none; the amendment to the amendment is approved.

MR. SARMIENTO. May I ask the chairman of the committee to read the entire section.

MR. VILLACORTA. "The State shall give priority to education, science and technology, arts, culture AND SPORTS TO FOSTER NATIONALISM, ACCELERATE SOCIAL PROGRESS AND PROMOTE TOTAL HUMAN LIBERATION AND DEVELOPMENT."

VOTING

THE PRESIDENT. As many as are in favor of Section 1, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 30 votes in favor, 2 against and 2 abstentions. So, Section 1 is approved.

MR. SARMIENTO. Madam President, after our complete liberation from Section 1, may I ask that Commissioner Tingson be recognized for his amendment to Section 1 (a).

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. I am through with Section 1 (a). The Chair did accept that for the record.

MR. SARMIENTO. Madam President, I ask that Commissioner Padilla be recognized for an anterior amendment.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. It is a matter of form on the heading of the title. After the word "CULTURE," add "AND SPORTS" so it will be in consonance with Section 1.

MR. GASCON. We transposed the word "AND" between "ARTS" and "CULTURE" and then put it between "CULTURE" and "SPORTS."

MR. PADILLA. Yes. What I mean here is to just add in the title "AND SPORTS."

MR. GASCON. Yes.

MR. VILLACORTA. Certainly.

MR. GASCON. So, the title would be "EDUCATION, SCIENCE, TECHNOLOGY, ARTS, CULTURE AND SPORTS."

THE PRESIDENT. What does the committee say?

MR. VILLACORTA. The committee accepts.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

MR. SARMIENTO. Madam President, may I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, I propose for the rewording of Section 1 (a) such that it will read as follows: "THE STATE SHALL PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION."

In my omnibus amendment, there is still the clause "FOR THE FULLEST DEVELOPMENT OF THEIR PERSONALITY AND HUMAN CAPABILITY AND SHALL INSURE EQUAL ACCESS AND OPPORTUNITY TO IT." In view of the amendment to Section 1, this would become unnecessary. However, I will further reword it to read, finally, as follows: "THE STATE SHALL PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION AND SHALL ENSURE EQUAL ACCESS AND OPPORTUNITY TO IT."

MR. SUAREZ. Madam President, point of inquiry.

THE PRESIDENT. What does the committee say?

Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

Is Commissioner Davide proposing an amendment to Section 1 (a) and 1 (c)?

MR. DAVIDE. Yes. I really have a reformulation of the entire section including the paragraphs, but I understand that the committee is going over it on the basis of the paragraphs. I have several rewordings.

MR. GASCON. I have a question before we decide on it. Does this diminish the basic principle that education is a right of every citizen?

MR. DAVIDE. It does not. As a matter of fact, we assume that it is basic and that is the reason why it would now be formulated to read: "THE STATE SHALL PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION AND SHALL ENSURE EQUAL ACCESS AND OPPORTUNITY"; mine is to be followed by "TO IT" but there is the recommendation "THERETO."

MR. SUAREZ. So, "THERETO"?

MR. DAVIDE. Yes, it will now read: "EQUAL ACCESS AND OPPORTUNITY THERETO."

MR. SUAREZ. Is this a merger of the two sections (a) and (c)?

MR. DAVIDE. It is.

MR. SUAREZ. Thank you.

MR. VILLACORTA. The committee accepts the amendment.

MR. GASCON. So, as long as it is understood that this does not at all diminish that basic right to education of every citizen, we accept.

MR. DAVIDE. It will strengthen.

MR. GASCON. In fact, Commissioner Monsod has a similar amendment to that section.

MS. ROSARIO BRAID. Yes. So, the cosponsors for this amendment will be Commissioners Davide and Monsod.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Will the proponent, Commissioner Davide, consider the deletion of the word "QUALITY"? Not that I do not want or would not cherish quality education, but in discussing this matter on education, this usually refers to Section 1 with its goals. Moreover, education covers the primary, elementary, the secondary and tertiary. And while quality education is ideal, many schools for some reason or another may not be able to give the highest quality of education. Earlier, I was saying that the Ministry of Education, Culture and Sports, under the Executive or the Congress, may provide for minimum requirements for the establishment, recognition, and operation of schools. That is more realistic because we cannot expect all educational institutions to give the highest form of imparting knowledge and inculcating what I have said, moral, mental, and physical education. I should not be misunderstood as not wanting quality education.

MR. VILLACORTA. Since the committee has accepted the amendment, I think that question should be addressed to the proponent of the amendment, Commissioner Davide.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas desires to speak.

FR. BERNAS. I would like to support the retention of the words "QUALITY EDUCATION" precisely to emphasize the fact that the State should take an active part in trying to improve substandard schools. I would also emphasize "ACCESS" because what we are looking for here is not just quality education but also equity in education.

So the State should make every effort to make good education accessible to all rich and poor alike. Incidentally, this was the theme of the address of the President when she accepted an honorary degree from a university recently. She emphasized in her address to the Ateneo students that the State supports quality education and equal access to education.

So the State supports the University of the Philippines and as a desirable goal, this could be an ideal. But the State should make an effort to raise the quality of education everywhere. In other words, it should make a positive effort to discourage the proliferation of mere diploma mills.

Maybe it will take time. But putting it down there as a goal of education would be a very important signal to the legislature.

THE PRESIDENT. Is Commissioner Padilla insisting on his amendment to remove the word "QUALITY"?

MR. PADILLA. If the proponent does not accept my proposal.

MR. DAVIDE. Madam President, it is with deep regret that this proponent cannot accept the proposed deletion of the word "QUALITY," not only because the committee itself, after a very extensive study and public hearings, adopted that concept in Section 1 (c) of this subheading on Education, but also due to the fact that that should really be the goal.

Somebody said that we should rather aim at the sky, at the moon and hit the garden fence than merely aim at the sky and hit the ground.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Davide yield to a question, or maybe Commissioner Bernas can acknowledge this question.

The Commissioner brought up Section 1 (c) which says that the State ensure equal access to education.

MR. DAVIDE. That is correct.

MR. OPLE. So, this Section 1 (c) now gets merged into Section 1. Is this a state guarantee or merely an expression of a policy to attain this goal of ensuring equal access to quality education at some future time?

Commissioner Bernas was talking about the State endeavoring to insure equal access, but what I see in the text is a guarantee of equal access to quality education, and this starts me getting worried about the level of plausibility and sincerity of a clear and unequivocal guarantee for equal access in the Constitution.

MR. DAVIDE. The wording of the proposed amendment is not just "guarantee"; it reads: "AND SHALL ENSURE EQUAL ACCESS AND OPPORTUNITY TO IT."

MR. OPLE. So, it is a guarantee and not just the statement of a goal which may not be immediately realized, considering all the resource constraints of the government and of the society itself.

MR. DAVIDE. The Commissioner is correct. It is a guarantee that should really be done, pursued and implemented.

MR. OPLE. Let us talk of equal access then and what it means. As soon as this Constitution is ratified, this guarantee will have to be taken seriously and the Commissioner will undoubtedly agree with that.

MR. DAVIDE. Yes.

MR. OPLE. Let us take some of the Commissioner's own constituents in Bantayan, Cebu, who will immediately clamor for equal access to quality education, perhaps of an Ateneo or a La Salle type of education in accordance with this solemn guarantee of the Constitution in Section 1.

Will they not be disappointed if, because of the social inertia, the lack of budgetary capacity, the scarcity of quality education in that area, that when they invoke this guarantee of equal access to quality education as stated in Section 1, they will feel frustrated and may hold the existing government, or maybe the Constitutional Commission to account for making a guarantee which is unequivocal in character for equal access to quality education, with the foreknowledge that this is not going to be attained easily or quickly?

Would the Commissioner consider raising the level of plausibility of this guarantee by saying what Commissioner Bernas had earlier stated that the State shall endeavor or shall take steps – maybe through Congress – to ensure equal access to quality education?

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. May I react. As mentioned earlier by Commissioner Padilla, he envisioned the setting up of minimum requirements by the Ministry of Education, Culture and Sports which, in fact, have already been set. Therefore, when we talk of quality education, it should be within the framework of these minimum requirements. Those schools that comply with the minimum requirements would be considered as providing quality education. Of course, "quality" is a relative term. In other words, we can still improve the quality of education. However, we are now talking of the minimum requirements when we relate this to the quality of education that we are providing for in the same way that a Corolla car could already provide quality transportation, but a Mercedes Benz would be an improvement to that. Thus, as the educational endeavor progresses, the quality will naturally be higher. However, that does not mean that there is no quality when we have already the minimum requirements as provided for by the government.

MR. OPLE. Madam President, may I put forward a very concrete and disturbing example. Out of the 5,000 public high schools in the Philippines, 2,500, almost exactly one-half, are barangay high schools, most of which are substandard. Seventy percent of the graduates of barangay high schools flunked the NCEE, the nationwide competitive examination. Under this definition of "quality education," will the State be obliged to close down all of these 2,500 barangay high schools which the Ministry of Education, Culture and Sports admits to be grossly substandard?

MR. VILLACORTA. Is the Commissioner addressing that to the Committee? There is no such intention. As a matter of fact, the contemplation is to improve the standard of such schools.

MR. OPLE. Yes, because Commissioner Bernas, in his earlier intervention, was talking about a policy of closing down diploma mills in order to improve the quality of education. Then there is an example of about 2,500 barangay high schools where most of the underprivileged youth actually take their secondary education and in which 70 percent of these youth flunk the NCEE according to the MECS figures.

Therefore, under this policy I would plead to the government to preserve these barangay high schools because there are no other high schools available in these hinterland areas. Instead of closing them, we should improve the standard. Of course, we will go into another sphere when we calculate how much it will take for the government to fund the improvement of these substandard schools. What is bothering me now is what I said about the level of plausibility and sincerity of a constitutional guarantee for equal access to quality education. If this can be formulated as a statement of aspiration, then I think we fulfill that standard of intellectual honesty relative to the guarantees of the Constitution. Will Commissioner Davide entertain an amendment.

MR. DAVIDE. We will willingly listen to any proposed amendment. But I would just like to comment, first, on the so-called "substandard barangay high school." We put up a barangay high school in our own barangay, 18 kilometers away from the poblacion of Argao, and we know for a fact that every year, the performance in the NCEE dwindles and it is really a very sad commentary on its performance. But I do not think the government is to be blamed. Basically the problem is the teachers themselves. Because of the very substandard compensation given to teachers, we cannot guarantee quality teachers to accept employment in the barangay high schools especially that 30 *per centum* of the expenses for maintaining a barangay high school is assumed by the barangay unit or the municipal government. In short, the point is that it is not that the government cannot provide quality education as a goal. The government can, but it should be taken in the context of adequate compensation precisely for our teachers. The report of the committee itself has provisions for special care and attention to the teachers. With this, we can be guaranteed good teachers and, therefore, they could impart quality education as an objective and goal of the Constitution.

I would disagree with the contention that if we approve this, we would commit mental dishonesty. No, certainly it is not. To aspire for a greater goal is not committing mental dishonesty.

MR. OPLE. If it is a statement of an aspiration and a goal, Madam President, there can be no disagreement. What I am challenging is the blanket, unqualified, categorical guarantee of equal access to quality education.

MR. DAVIDE. As a matter of fact, the Education Act of 1982 – although it was already known as the Education Act of 1980 of which the Commissioner was among those who voted in favor of it since it was a product of the Interim Batasang Pambansa – also provided for guarantee for equal access to education and to opportunities to education.

MR. GUINGONA. Additionally, the inclusion of the word "QUALITY" precisely mandates the State to improve the barangay high schools and the economic constraints that we find ourselves now, as pointed out by Commissioner Nolledo, are temporary circumstances. For the information of the honorable Commissioners, during our caucus, we had the Deputy Minister of Education, Culture and Sports, Minister Ordoñez, who had a telephone conversation with Minister Quisumbing. This has relation to the quotation or to the readings by our distinguished Vice-President of a news item where Minister Quisumbing said that she believed the implementation of secondary education would be impossible. Minister Quisumbing has been quoted by Deputy Minister Ordoñez to be in favor of the extension of free secondary education because she thinks that the inability of the government to provide this is going to be a very temporary one.

THE PRESIDENT. Can we vote now because there is a request for early adjournment due to bad weather.

MR. OPLE. Madam President, before we leave the subject, I want to reassure Commissioner Davide that when we reach Section 5, we have a proposed amendment that will give a more concrete guarantee of the highest budgetary priority to insure that the teaching profession will attract and retain the best talents available that will probably meet his concern about the low-paid teachers in the barangay high schools.

THE PRESIDENT. What is the proposed amendment?

MR. OPLE. In any case, I just want to propose, if Commissioner Davide will not mind it, a rephrasing which I leave to him. This will transform this categorical guarantee into a statement of a goal or of an aspiration so that we do not arouse false hopes and expectations.

Thank you, Madam President.

THE PRESIDENT. How is it to be rephrased?

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. When I mentioned minimum requirements, that did not mean quality education because if a school does not even comply with minimum requirements, that is below standard, and probably it should not be allowed to operate. We want to improve education, but we cannot guarantee the right of all the citizens to quality education.

Madam President, if the distinguished proponent and also Commissioner Bernas do not want to eliminate the word "QUALITY," by way of compromise, may I propose the following: "THE STATE SHALL PROTECT THE RIGHT OF ALL CITIZENS TO EDUCATION AND ENDEAVOR TO PROMOTE QUALITY EDUCATION."

THE PRESIDENT. What does Commissioner Davide say?

MR. DAVIDE. May we request a suspension of the session, Madam President?

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Before we suspend the session, may I just indicate something because I understand the issue is whether the quality education should be guaranteed or it would just be a question of a goal or aspiration. May I just inform the committee and the body that under the law creating the National Board of Education, which is RA 1124 as amended, the wording of the law is to the effect that the National Board of Education is directed to insure the continual upgrading of the quality of education. It will be noted that there is no guarantee that quality education should be given. It is only to insure the continual upgrading of the quality of education. So there is no guarantee that quality education should be given; it is, more or less, a goal or an aspiration.

Thank you, Madam President.

MS. ROSARIO BRAID. Point of inquiry, Madam President.

THE PRESIDENT. Do we still need a suspension?

MS. ROSARIO BRAID. Madam President, this is just an inquiry. It is a clarificatory question to Commissioner Maambong. Is it true that the National Board of Education has been abolished, per Education Act of 1982, and that it has been superseded by other units created under the Ministry of Education, Culture and Sports? In this case, a proposal would be to restore the National Board of Education.

MR. MAAMBONG. I do not really think so. As a matter of fact, the National Board of Education was created under RA 1124, amended by RA 4372, and finally, it has been amended by P.D. No. 6-A. I do not know for a fact whether or not this has been abolished. To my knowledge, this has not yet been abolished. Maybe educators here could give us some indications. But what I am just trying to point out is that, in this law, there is no indication of any guarantee for quality education. On the other hand, the law only states that procedures and requirements will insure the continual upgrading of the quality of education, the nationalization of institutional growth, and the democratization of access to education. I am just trying to support the contention of Commissioners Ople and Padilla that it is dangerous to insure quality education, rather it would be safer just to put the goals of quality education as an aspiration.

THE PRESIDENT. What does Commissioner Davide say? Does Commissioner Davide accept?

MR. DAVIDE. There are several proposals for amendments. Can we take these up tomorrow morning?

MR. GUINGONA. Madam President, just for a point of information. The Board of National Education has already been abolished by the Education Act of 1982. What has been created is the Board of Higher Education. Under Chapter 2, Section 4 of this Education Act, there is a provision which says: "Higher education will be geared towards the provision of better quality education." This implies that there can be quality education and there can be a better quality of education.

MR. MAAMBONG. Precisely, it is a mere aspiration, but not as a direct mandate.

ADJOURNMENT OF SESSION

THE PRESIDENT. So, we will continue the discussion of Mr. Davide's amendment tomorrow.

MR. SARMIENTO. Madam President, with the manifestation of Commissioner Davide and because of the bad weather, may I move that we adjourn until nine-thirty tomorrow morning.

THE PRESIDENT. As prayed for, the session is adjourned.

It was 5:00 p.m.

R.C.C. NO. 73

Wednesday, September 3, 1986

OPENING OF SESSION

At 9:56 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Teodoro C. Bacani.

Everybody remained standing for the Prayer.

PRAYER

BISHOP BACANI. Let us put ourselves in the presence of God.

O wise and Almighty God, as we begin our work today, make us realize that we are all pilgrims towards the truth. Grant us a share of Your truth but make us realize always that each of us can only have a share. Let us not fall into the belief that the share that we hold is the fullness of truth. Let us not identify truth simply with our own positions. Help us to search for the fullness of truth as we work, argue and debate together.

Help us to look at the merits of the arguments of our opponents in this hall and grant that as we look at the merits of their arguments, we may desist from questioning their motivations.

Grant us, O Father, trust in one another, that indispensable condition for our working together for the good of Your people. Grant us the grace to work in peace with one another; be hospitable to one another even while we are not hospitable to one another's ideas.

Grant us, O Father, to be able to fashion a fundamental law of the land worthy of our people. These we ask You in the name of Jesus, the Lord. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present	Nieva	Present
Aquino	Present*	Nolledo	Present
Azcuna	Present	Ople	Present*
Bacani	Present	Padilla	Present
Bengzon	Present	Quesada	Present*
Bennagen	Present	Rama	Present
Bernas	Present*	Regalado	Present
Rosario Braid	Present	Reyes de los	Present
Calderon	Present	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present	Rosales	Absent
Davide	Present	Sarmiento	Present
Foz	Present	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present	Tadeo	Present*
Guingona	Present	Tan	Present
Jamir	Present	Tingson	Present*
Laurel	Present	Treñas	Absent
Lerum	Present*	Uka	Present
Maambong	Present*	Villacorta	Present
Monsod	Present	Villegas	Present

The President is present.

The roll call shows 34 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection that we dispense with the reading of the Journal of yesterday's session? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection that we approve the Journal of yesterday's session? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 543, entitled:

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING CONFERRED THE ORDER OF KALANTIAO.

Introduced by Hon. Davide, Jr., Maambong, Foz, de los Reyes, Jr., Bengzon, Jr., Bennagen and Rama.

To the Steering Committee.

COMMUNICATIONS

Communication from one Roque J. Fernandez of Guimbal, Iloilo, suggesting the redistricting of Iloilo to seven congressional districts so as to provide the people equitable allotment of district representation.

(Communication No. 692 – Constitutional Commission of 1986)

To the Committee on the Legislative.

Telegram from the Cantilan Gospel Church, Cantilan, Surigao del Sur, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 693 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Telegram from the officers and members of the Philippine International Islamic Crescent Society, sent by its Secretary-General, Dr. Maguid Malang, expressing profound gratitude for the approval of a constitutional provision granting autonomy to Muslim Mindanao and the Cordilleras.

(Communication No. 694 – Constitutional Commission of 1986)

To the Archives.

Telegram from Sheik Ibrahim Nader, President, Federation of Islamic Arabic Schools, Poon-a Bayabao, Lasur, requesting vehemently the grant of autonomy to Mindanao.

(Communication No. 695 – Constitutional Commission of 1986)

To the Committee on Local Governments.

Telegram from the Interchurch Peacecouncil of the Netherlands expressing hope and support for the inclusion in the Constitution of a provision making the Philippines nuclear-free and foreign-bases free.

(Communication No. 696 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Kapunongan sa Kapilya sa Kristohanong Katilingban (4 K's) and Maayong Panglawas ng mga Surigawnon, signed by 85 residents of Surigao City, requesting inclusion in the Constitution of a provision regarding: (1) the creation of health centers; (2) reduction of the cost of medicines; (3) creation of sectoral committees, particularly on health; (4) prioritization of health, education and other social services; (5) respect for the right of hospital workers to organize and form labor unions; (6) orient the people on health education; (7) enactment of laws providing for free pre-natal checkups, vaccination, etc. for women during pregnancy and childbirth; and (8) removal of the U.S. military bases and support the call for a bases-free and nuclear-free Philippines.

(Communication No. 697 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Job Elizes, Jr. and family, 19 Filipinas Avenue, Parañaque, Metro Manila, requesting inclusion in the Constitution of a provision that will mandate the State to "include the teaching of specific acts and omissions in grade school which are in everyday life relating to respect and caring for the fellowmen, law and order, conducive to peaceful and orderly life, to develop in the child, law and order habit as his second nature and part and parcel of his being."

(Communication No. 698 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication signed by Mr. Gerardo C. Enriquez and 23 other concerned citizens of Alabat, Quezon, requesting the Constitutional Commission to incorporate in the Constitution a provision restricting the entry of foreign fishing and/or mining groups to prevent unmanageable depletion and exploitation of our natural resources.

(Communication No. 699 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from 153 signatories of Digos, Davao del Sur, appealing to the Constitutional Commission to include, among others, a provision that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State.

(Communication No. 700 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication signed by 413 signatories from various parts of the country, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 701 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from 169 signatories of Hagonoy, Davao del Sur, appealing to the Constitutional Commission to consider, among others, provisions that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State.

(Communication No. 702 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Mauro P. Balingit of 37 Aldrin Street, Doña Faustina Village, Culiat, Diliman, Quezon City, requesting that before the Constitutional Commission submits the final draft of the Constitution to the President for action, it should be published in full in the leading newspapers to give time for the concerned citizens to appeal on the items that may be objectionable to them.

(Communication No. 703 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from the Alliance Evangelical Church, Cotabato City, signed by its Chairman, Rev. Jose V. Empleo, and 21 other officers, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 704 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Community Evangelical Church, Dadiangas Heights, General Santos City, signed by its Chief Elder, Roberto Y. Cania, and 15 other officers, urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 705 – Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Madam President, I ask that Commissioner Romulo be recognized on a question of privilege.

THE PRESIDENT. Commissioner Romulo is recognized.

But before we do so, may the Chair inquire what is the nature of the privilege speech or remarks?

MR. ROMULO. It is with regard, Madam President, to the news stories that have been appearing today on our so-called role as "moles for multinationals" in this Commission.

THE PRESIDENT. Does Commissioner Romulo believe that this is an urgent matter that cannot wait until Friday under the Rules?

MR. ROMULO. Yes, Madam President, because I believe that our integrity is at question here.

THE PRESIDENT. Commissioner Romulo may proceed with his privilege speech.

QUESTION OF PRIVILEGE OF COMMISSIONER ROMULO

MR. ROMULO. I regret, Madam President, that I must once again take up the time of this Commission to deliver a privilege speech, and on this occasion perhaps regale it with my professional activities on account of the canard and misrepresentations being made by a special interest group concerning my actuations in this Commission. It is alleged, I understand, that because my law firm represents some foreign investors, I should abstain from voting on provisions in the Article on National Economy and Patrimony.

Let me say outright that I represent no foreign investor which may be affected by the Article on

National Economy and Patrimony, for the simple reason that none of my firm's foreign clients are engaged in the area of natural resources or public utilities. Moreover, President Aquino was well acquainted with my professional activities, because I so stated them in my biodata that I submitted, when she appointed me to this Commission. I see no cogent reason, therefore, why I should not participate in the consideration of the Article on National Economy and Patrimony. The proposition advanced, carried to its logical extreme, would apply to any Commissioner here who represents a particular sector, since obviously that sector's interest would be affected by one or more of the provisions we have adopted. I could ask Bishop Bacani, for example, whether foreigners confess to him, because that may influence him. Or I may ask Commissioner Bernas, whose Jesuit Order is truly multinational, whether that affects him because, unlike me, he takes a vow of obedience.

On the other hand, I have on several occasions voted against the interest of some of my firm's clients. For example, several of my Filipino and foreign clients will be affected by the trade liberalization policies of the government. Nevertheless, I voted against "constitutionalizing" protectionism of local industries. Since I represent Lepanto Consolidated Mining Company, a Filipino corporation, I should have voted for a higher percentage of Filipino equity in the natural resources provision; but I did not do so. Again, I should have voted against the 1,000-hectare limitation because I have Filipino clients who will be much affected by that limitation; but instead, I voted for it.

Thus, as I have observed before, resort to motivations is not only unfair, but unproductive and self-defeating. Let us stick to the facts, to the issues, the merits of the case and reasoned arguments. I vote as a Filipino, not as a lawyer, and I do so guided only by what I believe is for the best interest of our country. I welcome opposite views because they test my own. In the amendments I have proposed, I have depended on their merits and never have I resorted to name-calling, nor pretended that I have a monopoly of wisdom or patriotism, nor questioned anyone's motivation. I, therefore, expect the same civilized treatment.

Let me now, Madam President, dwell on the list of my clients which the so-called coalition disseminated so freely yesterday. First of all, the list comes from *Martindale-Hubbell Law Directory,* a publication which invites selected lawyers from all over the world to publish a profile of their law firm. Modesty aside, once a lawyer is listed in this publication, that lawyer has arrived. The information from *Martindale-Hubbell Law Directory* comes from me and is, indeed, paid for by my firm. Thus, my firm's clientele has never been a state secret. The purpose of listing one's clients in *Martindale-Hubbell Law Directory* is to let a prospective client judge the depth of one's legal experience and expertise, and, therefore, we enumerate not only present but also past clients.

It is relevant to state at this point that my law firm is more than 25 years old, founded by the late Justice Roman Ozaeta, of whom there was no more ardent nationalist. And in our roster of clients, the ratio is 10 to 1 – may I repeat – 10 to 1 in favor of Filipino clients. Of the 34 clients mentioned by the so-called coalition, 16 of them were either clients for a single transaction, or no longer operating here or are dormant corporations. These are: American Can (I helped them with their joint venture that did not go through); American Smelting and Refinery; Kristian Jebsens (I helped them with a joint venture with Aboitiz); E. E. Black, Beecham Group Ltd. (I represented them in one patent case); Credit Swiss (I represented them in one loan transaction); Dibrell Carolina; Falconbridge, Philippines; Granexport; GTE Industries; Mission Exploration; NDC-Guthrie Plantations (By the way, in this case, I represented NDC, the National Development Corporation. I do not think one can be more Filipino than that); Reader's Digest (no longer here); Sime Darby; 20th Century Fox; and Ford, Philippines, whose assets have been sold and whose operations have closed down.

May I mention again that these are corporations that do not even operate here. My firm's active foreign clients are: Ace-Compton, AHS Philippines, Avon, Coca-Cola Export, Cyanamid, Honda, IBM, Mellon Bank, for whom I have been chasing for the last seven years the $1 million that was sent here mistakenly; Goulds Pumps, Citibank, Geothermal Philippines, and W. R. Grace, all of whom are either manufacturers, distributors, or service organizations and none of them, the body will note, are in the natural resources or public utilities. The rest are Filipino companies, namely: Hooven-Comalco, Lepanto, National Development Corporation, Philippine Acetylene, Staedtler Philippines, Mercury Group and Peter Paul. Madam President, it seems, that the interest group had a hard time tagging Commissioner Bengzon. I offer him some of my clients so that he can be a *bona fide* member of the "Four Horsemen."

Once again, Madam President, I have been maligned. I am convinced that the systematic attack, the continuous vilification and character assassination campaign against some of us are aimed at discrediting this Commission. Unfortunately, certain elements in our society do not want us to succeed, because our success would mean political stability and unity for our country and our people.

If that is the price I must pay for our country's progress and that price is to accept a daily dose of vituperation and verbal abuse, then, Madam President, so be it. I pay the price willingly.

Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Villegas be recognized on an urgent privilege matter.

THE PRESIDENT. If it is on the same nature, then we will recognize Commissioner Villegas.

QUESTION OF PRIVILEGE OF COMMISSIONER VILLEGAS

MR. VILLEGAS. Yes, Madam President.

I owe no one an explanation for the decisions I have taken in this honorable body. From the very beginning of my professional career as an economist, I have always endeavored to contribute to the common good. But since some vested interest groups have chosen to distort the truth about my independence, let me set the record straight.

In my work as a business economist, I provide vital economic information to more than 600 firms and individuals operating in the Philippines. Some 80 of them happen to be multinational corporations. Each of them makes regular and equal contribution to fund the research activities of the Center for Research and Communication (CRC), a private nonprofit and nonstock foundation engaged in business and economic research, where I am one of the senior economists. Each of them gets exactly the same and identical information about the national, regional and international economy. Each of them has precisely learned how to highly appreciate the information they obtained from me because I am beholden to no one, not even during the last oppressive regime. For my work, some of them decide to appoint me as a member of their respective boards, others designate me as a consultant on corporate planning, and still others are numbered among the corporate friends of CRC.

McDonalds, the company that my detractors have chosen to single out, is just one of the more than 600 firms that receive regular economic information from me. If any group can exert pressure on me, it is the group represented by more than 500 Filipino firms and entrepreneurs, who provide the bulk of the financial contributions to CRC. I have worked more closely with such companies, like MERALCO and PLDT, than any multinational firm. And, therefore, logically I should have voted for 100 percent Filipino equity in public utilities. I have worked more closely with Ayala Corporation, producing Purefoods products, and RFM, producing all types of consumer products. I should have voted for complete protection of the domestic economy against foreign competition and I can go on and show that if I am to be accused of conflict of interest, it would have to come precisely from the Filipino firms. Some of them were in the galleries during that memorable day, trying to put pressure on the committee to enshrine protectionism forever and ever in our Constitution.

I find, therefore, these wild accusations levelled at me in yesterday's press conference, ridiculous and indicative of intellectual bankruptcy of the individuals who have chosen to malign me. They have run out of solid logical arguments and facts to defend their extremist views, with which I happen to disagree.

Thank you very much, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Madam President, I ask that Commissioner Monsod be recognized on a similar urgent privilege matter.

THE PRESIDENT. If it is on the same matter, the Chair will recognize Commissioner Monsod.

QUESTION OF PRIVILEGE OF COMMISSIONER MONSOD

MR. MONSOD. Thank you, Madam President.

There are people who claim that I represent interest other than Filipinos because I happened to have worked in the World Bank group from 1963 to 1970. My answer is simple. Since 1970, I have had no connection with the World Bank nor do I have any beneficial interest in any multinational company. That I worked in the World Bank is public knowledge because it is contained in every biodata I issue when requested in any speaking engagement. It is the same biodata I submitted to the President for appointment to this Commission.

Madam President, I do not apologize for having worked in the World Bank. I was a professional among 11 selected from a competition of a field of 500 worldwide in the first group of young professionals hired by the bank. I gained valuable experience there, which I hope to use for my country. I do not need to advertise what I do, but it is public knowledge or it is knowledge in government that in the last two months it was my opinion that the International Finance Corporation not be allowed as a joint venturer in the company that would manage the privatization of the assets of government. Anybody who cares to do honest research can look into that. I resigned in 1970 from the World Bank as division chief of the International Finance Corporation for South Asia and the Middle East. I did not have to come back to this country. I was told I had a future in the bank. But my wife and I chose to come back and refused to live for opportunities abroad even under persecution by President Marcos because we have chosen to criticize him since 1972. Since then we have done what we could in our common aspiration for freedom.

I wish these tactics of black propaganda would cease, even for the sake of our families and our children who also contributed their share of sacrifices and who often ask me now: "Is this what we fought for?" But I want to say that my children and my family continue to understand even at their age, that those who choose public service do so with certain risks. I have voted in this Assembly according to my conscience, what it tells me is good for the country. The record of this Commission is open for everybody to see. To me, freedom is the highest value and truth its handmaiden. To paraphrase somebody, I consider myself the State's good servant and God's first. God forgive me, if I digress from that path. I ask Him also to give me the grace to forgive those to whom I now appeal for a return to decency and fair play.

Thank you.

MR. RAMA. Madam President, in connection with the privilege speeches, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Madam President, may I make a slight correction on the statement of our Floor Leader. This resolution is not in connection with the speeches. In fact, this resolution was prepared before I heard the privilege speeches. This resolution was prepared because of news items that have appeared in media since yesterday afternoon up to this morning. I will read the resolution. It is self-explanatory, and I submit this for the consideration of the body:

RESOLUTION DEPLORING ANY ACTION FROM ANY SOURCE TO SUBVERT THE INDEPENDENCE AND CREDIBILITY OF THE CONSTITUTIONAL COMMISSION.

Whereas, various interest groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism in an attempt to coerce and intimidate them;

Whereas, these tactics tend to subvert the independence and credibility of the Commission and to influence Members of the Commission and restrict their right to vote freely on issues;

Whereas, the independence of the Commission from external pressures from any source is indispensable to the accomplishment of its task;

Now, therefore, the Commission hereby resolves to deplore any action from any source to subvert the independence and credibility of the Commission;

Further resolves to reaffirm its confidence in the independence, integrity and patriotism of each and every Member of the Commission.

Madam President, I move for the approval of this resolution.

MR. REGALADO. Madam President, I second the motion.

THE PRESIDENT. Is there any objection to this particular resolution that has been submitted by Commissioner Rodrigo and seconded by Commissioner Regalado?

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, in view of the importance of the proposed resolution, may I suggest that the body vote affirmatively, positively on this, instead of just requesting if there is any objection or if the suggestion is well taken.

THE PRESIDENT. Does Commissioner Bengzon suggest a raising of hands or a nominal voting?

MR. BENGZON. Just a raising of hands would do, Madam President.

MR. FOZ. Madam President.

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. May we ask the proponent of the resolution certain questions?

MR. RODRIGO. Gladly, Madam President.

THE PRESIDENT. Please proceed.

MR. FOZ. Will the proponent kindly enlighten the body on the specific basis for his drafting the resolution? What are the specific instances the proponent referred to which caused him to prepare such a resolution?

MR. RODRIGO. I think it is known to everybody. I refer to the news item regarding an alleged meeting of certain so-called economists or nationalists at a certain place maligning some of the Members of this Commission and imputing bias on some Members. And it is my well-considered opinion that any ugly reflection, any stain on the name of some Members of this Commission will reflect and can reflect on the whole Commission.

MR. FOZ. Madam President, is that single incident or event now made the basis for the resolution?

MR. RODRIGO. Let us not call that "only." I do not call that "only."

MR. FOZ. No, I mean that is the single event or cause which is now made the basis of the resolution. Are there other instances or statements made outside the Commission and perhaps published in the newspapers or in the media which the proponent would say form the basis for his having presented such a resolution?

MR. RODRIGO. That was the immediate cause. But then, there were antecedents. But I would not want to go into the details of those antecedents because I would not want to exacerbate this matter which might involve some Members of the Commission. What I want is for us, by means of this resolution, to state categorically that each and everyone of us has faith and confidence in the integrity and patriotism of each and every Member of this Commission. Please do not make me rake up past incidents; I would not want to do that because that can be divisive.

MR. FOZ. Thank you.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Will Commissioner Rodrigo yield to a few clarifications, Madam President?

MR. RODRIGO. Gladly, Madam President.

MR. SUAREZ. Thank you.

I understand the concern of Commissioner Rodrigo for protecting the integrity of this honorable Commission. I share with him that sentiment. In the resolution, I take it that Commissioner Rodrigo deplores the action taken by external or outside forces imputing certain acts upon three distinguished Members of this Commission. Is my understanding correct, Madam President?

MR. RODRIGO. Yes. That is the immediate cause of this.

MR. SUAREZ. Thank you.

And the Commissioner would want that this Commission should now stand up in unison and declare that we have faith in the integrity of our own colleagues?

MR. RODRIGO. Of each and every colleague of ours.

MR. SUAREZ. Yes, and the Commissioner feels that that is a duty on his part and on the part of this Commission to do so.

MR. RODRIGO. That is if, in conscience, the other Members of this Commission believe so, as I, in conscience, believe.

MR. SUAREZ. So, the Commissioner is practically not taking up the cudgels, in a manner of speaking, for the three Commissioners whose names have been dragged into this situation, but he is doing it in the interest of the entire Commission.

MR. RODRIGO. Mainly, yes.

MR. SUAREZ. Thank you.

MR. RODRIGO. But then as I said, any stain in the name of some Members of this Commission reflects on the whole Commission.

MR. SUAREZ. Thank you, Madam President.

Because of the importance and value of the resolution, would the proponent agree to distribute copies thereof before we take a vote on the matter? And if so, would the proponent, if it is called for, agree to some amendments which is the characteristic procedure in this Commission?

MR. RODRIGO. If it is necessary, I have no objection to that.

MR. SUAREZ. Thank you.

So, may we respectfully request the Secretariat to distribute copies of the proposed resolution of Commissioner Rodrigo.

THE PRESIDENT. The Secretariat is so ordered. In the meantime, we will defer action on this particular resolution.

Is there any other business?

MR. RAMA. Madam President, I move that Commissioner Bengzon be recognized.

THE PRESIDENT. Commissioner Bengzon is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 543

(Congratulating the Honorable Jose B. Laurel, Jr. on His Being Conferred the Order of Kalantiao)

MR. BENGZON. Madam President, in the Order of Business this morning, Resolution No. 543 was proposed by several Commissioners, which was referred to the Steering Committee and which the Steering Committee now in turn request that it be considered by this body. The resolution is entitled:

> RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING CONFERRED THE ORDER OF KALANTIAO.

The resolution was introduced by Commissioners Davide, Maambong, Foz, de los Reyes, Bennagen, Rama and this Representation.

Madam President, may I move that the proposed resolution be considered now and that it be approved.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Will the proponent please read the entire resolution?

MR. BENGZON. I do not have a copy of the resolution now, Madam President. May I request that this matter be deferred until it has been filed with the Secretariat.

THE PRESIDENT. Yes.

MR. VILLACORTA. Madam President, may I second that motion?

THE PRESIDENT. Is Commissioner Villacorta seconding the resolution or the motion to defer?

MR. VILLACORTA. The motion congratulating Commissioner Laurel, Madam President.

MR. SARMIENTO. Madam President, even without waiting for the copies of the resolution, may we vote on the resolution?

APPROVAL OF PROPOSED RESOLUTION NO. 543
(Congratulating the Honorable Jose B. Laurel, Jr. on His Being Conferred the Order of Kalantiao)

THE PRESIDENT. Is there any objection that we proceed to vote on this resolution even without reading the contents of the resolution? *(Silence)* The Chair hears none; the motion is approved.

As many as are in favor of this resolution congratulating the Honorable Jose B. Laurel, Jr. on his being conferred the Order of Kalantiao, please raise their hand. *(All Members raised their hand.)*

The resolution is unanimously approved.

MR. BENGZON. May I move, Madam President, that the text of the resolution be incorporated in the Record.*

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, for a parliamentary inquiry regarding the Rules, I ask that Commissioner de Castro be recognized.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

This is a matter of inquiry, Madam President. In the proceedings yesterday, it will be recalled that I filed an amendment to Section 1 on the Article on Education, and my amendment reads as follows: "THE STATE SHALL GIVE PRIORITY TO EDUCATION, SCIENCE AND TECHNOLOGY, ARTS, CULTURE AND SPORTS." All the words from lines 9 to 11 were deleted. This proposed amendment was lost on the floor with a vote of 17 against and 14 in favor. After some deliberations on the same section, Commissioner Aquino moved for a reconsideration of my amendment. However, the Chair ruled otherwise and the said motion for reconsideration was not put on the floor for decision. I explained my amendment, as well as the proposed reconsideration; still it was ruled that there will be no need because Commissioner Aquino shall put amendments on her motion for reconsideration. Allow me to read, Madam President, Section 43 of our Rules:

> Timeliness; withdrawal; period; and adoption — A motion for reconsideration, if timely made, shall not be withdrawn without the consent of the Constitutional Commission and may be considered upon the call of a Member.

It will be recalled that I was moving for the reconsideration of the motion of Commissioner Aquino and I put it to the Chair for the appropriate ruling.

THE PRESIDENT. Was that just an observation or is there any motion attached to it?

MR. DE CASTRO. I move, Madam President, that Section 43 of our Rules be followed.

THE PRESIDENT. To explain the situation further, the ruling of the Chair yesterday was premised on the fact that the motion filed or submitted by Commissioner Aquino is not really a motion for reconsideration because a motion for reconsideration of the loss of a particular amendment should refer exactly to that particular amendment.

But the proposed amendment of Commissioner Aquino, as shown by the records of the case, did not tally exactly with the proposed amendment of Commissioner de Castro. So how can it be a motion for reconsideration on the vote of the proposed amendment of Commissioner de Castro when these two — the proposed amendment of Commissioner de Castro and the proposed amendment of Commissioner Aquino — are not the same? That was the basis of the ruling of the Chair.

MR. DE CASTRO. Madam President, I am not insisting.

THE PRESIDENT. I suppose, just to cut short the argument that was going on, Commissioner Aquino stood up and withdrew her motion for reconsideration.

MR. DE CASTRO. Madam President, I am not insisting on my amendment, but I am only putting the records straight. Madam President, allow me to read page 16 of the Journal yesterday, starting from the fourth paragraph:

> On Mr. de Castro's query whether she was withdrawing her motion for reconsideration, Ms. Aquino stated that she was submitting to the ruling of the Chair.

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*See Appendix

At this juncture, in reply to Mr. de Castro's observation that a Member who voted with the majority was moving for reconsideration, the Chair stated that Ms. Aquino's amendment was not an amendment to Mr. de Castro's amendment. Mr. de Castro yielded to the Chair's ruling.

Thereupon, Ms. Aquino manifested that conformably with the ruling of the Chair, she was withdrawing her motion for reconsideration, in lieu of which she would present an amendment by substitution.

I am only making certain clarifications so that our Rules may be followed in the proceedings of our Commission.

Thank you, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I would like to state for the record that the ruling of the Chair yesterday was correct. Section 48 of our Rules on "Amendments" provides:

> When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order. It shall also be in order to offer further amendment by substitution, but it shall not be voted upon until the original motion or proposition is perfected. Any of said amendments may be withdrawn before a decision is had thereon.

This was exactly complied with by the Chair yesterday — I refer to Section 48 — the withdrawal of the motion of Commissioner Aquino was in order because she offered amendments by substitution thereafter.

MR. DE CASTRO. Madam President, just for the record. Section 48 of our Rules speaks of amendments; Section 43 speaks of a motion for reconsideration. There can be no compatibility between the two sections. The former speaks of amendments, amendments to the amendment, but Section 43 specifically refers to a motion for reconsideration.

Thank you.

MR. DAVIDE. Yes, Madam President. Yesterday we were in the period of amendments, that is the reason why Section 48 is the more applicable law.

THE PRESIDENT. Thank you.

MR. DE CASTRO. Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Foz be recognized for a motion to vote on Third Reading on the Article on Human Rights.

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. Madam President, I thought that the Floor Leader would call for approval on Third Reading of Proposed Resolution No. 539 which would incorporate in the new Constitution the provisions on the Commission on Human Rights.

Is that the motion of the Floor Leader now?

MR. RAMA. I move, Madam President, for a vote on Third Reading on the Article on Human Rights.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I move to amend the motion of the Floor Leader, because there was an understanding that it should not be known as an article; it may be placed anywhere depending on the action of the Committee on Sponsorship. It is not an article.

MR. RAMA. That will be explained precisely by Commissioner Foz.

MR. FOZ. Madam President, this is a proposed resolution to incorporate in the new Constitution the provisions on the Commission on Human Rights. So, we are not calling this a separate article.

Madam President, before we go into Third Reading approval of this resolution concerning the creation of the Commission on Human Rights, we would like to call attention to a reservation made by Commissioner Regalado, and to which the Committee on Constitutional Commissions and Agencies has subscribed, regarding a provision which this body had earlier approved in connection with the Article on Accountability of Public Officers.

I refer specifically, Madam President, to Section 12 (2) of the Article on Accountability of Public Officers where the following phrase, as presented by Commissioner Regalado and approved by the committee, appears and I quote: "including any violation of civil, political, or human rights." This has reference to the jurisdiction of the Office of the Ombudsman. That amendment was approved by the Committee on Accountability of Public Officers and by this body, with the understanding that if the proposal to create a Commission on Human Rights is approved by this body, then this phase in question would be deleted.

So, with the approval by this body of the proposed Commission on Human Rights, I would like to call the attention of the Committee on Sponsorship and also, perhaps, the Committee on Style, so that the phrase "including any violation of civil, political, or human rights" which is now part of the Article on Accountability of Public Officers, Section 12 (2), be deleted accordingly.

Thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 10:51 a.m.

RESUMPTION OF SESSION

At 11:00 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Madam President, this is with respect to the motion to vote on Third Reading on the Article on Accountability of Public Officers, as well as the proposed resolution on the Commission on Human Rights.

THE PRESIDENT. Which shall we take first?

MR. RAMA. Commissioner Foz has agreed I was right that there was no Third Reading vote on the Article on Accountability of Public Officers. So, I ask that we vote first on Third Reading on the Article on Accountability of Public Officers.

THE PRESIDENT. Is that correct? When we suspended the session, there was a proposal to have a Third Reading vote on the resolution on the Commission on Human Rights.

May we ask Commissioner Foz which he prefers to take up first, because of the remarks he made.

NOMINAL VOTING ON PROPOSED RESOLUTION NO. 539 ON THIRD READING

(Article on the Constitutional Commissions – Commission on Human Rights)

MR. FOZ. I move, Madam President, that we first approve on Third Reading Proposed Resolution No. 539 on the Commission on Human Rights. Then after that, we go on to the Article on the Accountability of Public Officers.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Printed copies of Proposed Resolution No. 539 were distributed on September 1, 1986 pursuant to Section 28, Rule VI of the Rules of the Constitutional Commission.

Voting on the proposed resolution on Third Reading is, therefore, in order.

The Secretary-General will read the title of the bill.

THE SECRETARY-GENERAL. Proposed Resolution No. 539, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS.

FIRST ROLL CALL

THE PRESIDENT. The body will now vote on this proposed resolution and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar		Foz	Yes
Alonto		Garcia	
Aquino		Gascon	Yes
Azcuna		Guingona	Yes
Bacani	Yes	Jamir	
Bengzon		Laurel	
Bennagen	Yes	Lerum	
Bernas	Yes	Maambong	Yes
Rosario Braid		Monsod	Yes
Calderon	Yes	Natividad	Yes
Castro de		Nieva	
Colayco	Yes	Nolledo	Yes
Concepcion		Ople	Yes
Davide	Yes	Padilla	

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA. Madam President, I also vote yes but I hope that this will not be a duplication and worse, a relegation of the entire governmental machinery for the enforcement of human rights and the prosecution and trial and conviction of violators thereof. As I stated in my earlier observations, the enforcement and protection of human rights will not merely depend on a Commission on Human Rights but would involve the entire governmental machinery, including the law enforcement agencies, the prosecution arm of the government and an effective administration of justice.

Thank you, Madam President.

THE SECRETARY-GENERAL, *reading:*

Muñoz Palma	Yes	Suarez	Yes
Quesada	Yes	Sumulong	
Rama	Yes	Tadeo	
Regalado		Tan	
Reyes de los	Yes	Tingson	Yes
Rigos		Treñas	
Rodrigo	Yes	Uka	
Romulo	Yes	Villacorta	Yes
Rosales		Villegas	Yes
Sarmiento	Yes		

MR. OPLE. Madam President, may I know how my vote was recorded?

THE SECRETARY-GENERAL. Yes.

MR. OPLE. May I explain my vote, Madam President?

THE PRESIDENT. Please proceed.

COMMISSIONER OPLE EXPLAINS HIS VOTE

MR. OPLE. I think this is a historic milestone in the entire history of the struggle for civil liberties and human rights in our country. Some of us had initial reservations about setting up a constitutional body that would act with reasonable independence of the government itself in the pursuit of the crusade for human rights, but I think a consensus grew that nothing short of a constitutional sanction and mandate would be required in order to make human rights or the concern for human rights second nature to our countrymen.

Madam President, it is unfortunate but true that when one leaves the boundaries of the metropolitan areas, the protection of the Constitution for civil rights seems to diminish or dwindle in direct proportion to the distance. And that is the reason why in Metro Manila we do not hear of newspapermen being killed; it is very seldom when we hear of members of the mass media being assassinated in Metro Manila because we have in metropolitan areas the existing infrastructure for the enforcement of constitutional rights. We have ready access to the courts; we have ready access to media; we have ready access to the highest levels of government for redress. We have human rights groups that are eager to listen, but in proportion to the distance from metropolitan centers, the risk for the exercise of human rights and civil liberties aggravates. And that is the reason why in 1985, no less than 18 members of media – newspaper editors and radio commentators – were killed, and I think in the majority of cases, the authorities have not come up with findings on who perpetrated these brutal assassinations which are considered a way of striking at the roots of press freedom.

And so, in voting for this provision for a Human Rights Commission, Madam President, I see my mind focusing on the possibilities for this commission to propagate a human rights consciousness so that even in the remote hinterlands of our country, the people who lack the infrastructure of redress and of amenities in metropolitan areas will begin to assimilate the significance of human rights in their lives as a civilized society.

Thank you, Madam President.

SECOND ROLL CALL

THE PRESIDENT. The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Yes
Alonto	Yes
Aquino	Yes
Azcuna	Yes
Bengzon	Yes
Rosario Braid	Yes
Castro de	Yes
Concepcion	Yes
Garcia	Yes
Jamir	Yes
Laurel	Yes
Lerum	
Nieva	Yes
Regalado	Yes
Rigos	Yes
Rosales	
Sumulong	Yes
Tadeo	Yes
Tan	Yes
Treñas	
Uka	Yes

APPROVAL OF PROPOSED RESOLUTION NO. 539 ON THIRD READING

(Article on the Constitutional Commissions – Commission on Human Rights)

THE PRESIDENT. The results show 44 votes in favor, none against and no abstention.

Proposed Resolution No. 539 is approved on Third Reading.

MR. RAMA. Madam President, I move that we vote on Third Reading on Proposed Resolution No. 456, entitled:

> RESOLUTION PROPOSING TO INCORPORATE IN THE 1986 CONSTITUTION AN ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Before we go to the voting, I would request certain clarifications on the Article on Accountability of Public Officers. On page 4, Section 6, line 3 speaks of the Ombudsman to be known as Tanodbayan. In this connection, I would like to relate this incident to the body. Last Saturday evening, when I met the Honorable Raul Gonzalez, he immediately accosted me and asked, "Why did the Commission prohibit me from running for election?" I was dumbfounded, Madam President; I did not know what he was talking about, until I realized that he was the Tanodbayan. And so I told Honorable Gonzalez point-blank, as I usually speak because I am not a diplomat, "Your Honor, you are not the Ombudsman; you are a special prosecutor of the Sandiganbayan, and the one we are prohibiting from running for election is the Ombudsman." There really is a little difference or some misunderstanding when we say:

> There is hereby created the independent Office of the Ombudsman, composed of the Ombudsman to be known as Tanodbayan.

To avoid all misunderstanding on this point, until such time that we may be able to have the appropriate word for Ombudsman, I will really move that the words "to be known as Tanodbayan" be deleted from the third line of Section 6, page 4.

THE PRESIDENT. May we hear from the chairman, Commissioner Monsod?

MR. MONSOD. Madam President, I believe that the article is quite clear. As a matter of fact, we should draw the attention of the present Tanodbayan to Section 5 of the article, not Section 6, which says: "The Tanodbayan, presently existing, shall hereafter be known as Special Prosecutor." In effect, what we are saying here is that, Justice Gonzalez, after the ratification of this Constitution, is to be known as the Special Prosecutor, to whom no disability applies in running for the Senate. If, however, the President so chooses to appoint him in accordance with this article as the Tanodbayan or Ombudsman under the new Constitution and he accepts such appointment, then the prohibition will apply to him. So, we submit, Madam President, that there is no need for any amendment because the article, as written, is quite clear.

MR. DE CASTRO. Madam President, with the explanation, I submit, and that I just like to give the information to this body about the apparent misunderstanding of the present Tanodbayan – that he is the Ombudsman.

Thank you, Madam President.

MR. MONSOD. Thank you.

MR. RAMA. The body, Madam President, is now ready to vote on Third Reading on said article.

MR. MONSOD. Madam President, I believe that Commissioner Foz had earlier made a manifestation. And before we vote, may I repeat the manifestation as chairman of the committee. That in accordance with the reservations and the record of the debates on the section on the Ombudsman, Section 12 (2), we approve on Third Reading this article with the deletion of the phrase "including any violation of civil, political, or human rights." With the approval of the proposed Commission on Human Rights, this phrase now becomes redundant because the intention at that time was that this phrase would really be eliminated once the Commission on Human Rights is approved by this body.

THE PRESIDENT. So that there will be a period (.) after "duties."

MR. MONSOD. Yes, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Just a point of clarification from Commissioner Monsod. Does this mean that any violation of civil, political or human rights in the performance of duties of public officers will no longer be within the jurisdiction of the Tanodbayan, and should be with the Commission on Human Rights?

MR. MONSOD. Yes. The jurisdiction over civil and political rights, defined in the Commission on Human Rights as the human rights under its jurisdiction, is now taken out of the jurisdiction of the Ombudsman.

MR. MAAMBONG. Forgive me, but I was acting under the impression that any kind of violation, as long as it is committed by public officers, should exclusively pertain to the Tanodbayan, regardless of whether it is a violation of civil, political or human rights. The benchmark I thought was that, in cases where public officials or public employees or public officers are involved, these should properly be with the Tanodbayan.

MR. MONSOD. I think the jurisdiction of the Commission on Human Rights is quite clear – that all violations of human rights involving civil and political rights are now within the jurisdiction of the Commission on Human Rights, and one of the issues that was precisely raised by Commissioner Bengzon at that time was that we should try to eliminate overlaps in government offices. Therefore, with this amendment and in consonance with the representation at that time of Commissioner Regalado, this is now taken out of the area of the Ombudsman and placed under the Commission on Human Rights.

MR. MAAMBONG. Just one point, Madam President. If we are agreed that violations of civil, political or human rights committed by public officers will be with the Commission on Human Rights, I would assume that there will be practically no cases within the jurisdiction of the Tanodbayan. During my interpellation of the committee, when we talked about civil, political or human rights, the committee was very specific in saying that when we say "political rights" we are also talking of violations of individual rights, and this will take out practically all the jurisdiction of the Tanodbayan.

MR. MONSOD. No, I believe it was clarified in the interpellations and debates that the area of the Commission on Human Rights is much narrower and there was even an enumeration of those violations mentioned by the panel at that time. We are only trying to take out the overlap here, Madam President. I agree with the Gentleman that if one were to take human rights in its broadest context, then the Commission on Human Rights will be a super body under our Constitution. However, if the Gentleman were to read the provisions on the Commission on Human Rights, the intent there is to have very modest objectives for the Commission on Human Rights, and only after Congress so provides under Section 3 of the article, on recommendation of the Commission itself, will it expand the area of the coverage of the Commission on Human Rights.

MR. MAAMBONG. Madam President, if it will not gravely damage the schedule on this article, would it be all right, with the permission of Commissioner Monsod, that we defer consideration on Third Reading of this particular article?

I will not insist on this but if it is all right with the Commissioner, could we ask for deferment of the consideration of this particular article?

MR. MONSOD. May I know, Madam President, the basis of the request for deferment, because the records of the deliberations on the article are, I believe, quite clear, and the interpretation will now be left to the courts and for Congress to implement. I believe there is enough in the records, to solve any of these overlaps.

MR. MAAMBONG. I was thinking that we should discuss this not necessarily on the floor so that it will not take much of our time. However, I will not insist, Madam President.

THE PRESIDENT. Commissioner Maambong, this was already approved on Second Reading with that reservation.

MR. MAAMBONG. Yes, I understand that, Madam President, but I am not really insisting on it. I was just thinking that perhaps the chairman of the committee would take this under proper advisement and we can talk about it first.

MR. MONSOD. Madam President, perhaps we can go ahead with the Third Reading and Commissioner Maambong can make the manifestations in the record invoking the distinctions that must be made in order to avoid overlaps in the functions of these two offices.

MR. MAAMBONG. We submit, Madam President. That would be all right.

NOMINAL VOTING ON PROPOSED RESOLUTION NO. 456 ON THIRD READING
(Article on Accountability of Public Officers)

MR. RAMA. I move that we vote on Third Reading on Proposed Resolution No. 456.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Printed copies of Proposed Resolution No. 456 were distributed on July 30, 1986 pursuant to Section 28, Rule VI of the Rules of the Constitutional Commission.

Voting on the proposed resolution on Third Reading is, therefore, in order.

The Secretary-General will read the title of the bill.

THE SECRETARY-GENERAL. Proposed Resolution No. 456, entitled:

RESOLUTION PROPOSING TO INCORPORATE IN THE 1986 CONSTITUTION AN ARTICLE ON ACCOUNTABILITY OF PUBLIC OFFICERS.

FIRST ROLL CALL

THE PRESIDENT. The body will now vote on this proposed resolution and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	
Alonto	
Aquino	
Azcuna	Yes
Bacani	Yes
Bengzon	Yes
Bennagen	
Bernas	Yes
Rosario Braid	Yes
Calderon	Yes
Castro de	Yes
Colayco	Yes
Concepcion	Yes
Davide	Yes
Foz	
Garcia	
Gascon	
Guingona	

MR. GUINGONA. Madam President, may I be allowed to explain my vote?

THE PRESIDENT. The Gentleman has three minutes.

COMMISSIONER GUINGONA EXPLAINS HIS VOTE

MR. GUINGONA. With regard to the matter of impeachment, although I fully concur with the assertion that impeachment is a political device and I also admit that in previous constitutions, the power of impeachment and the power to adjudicate cases of impeachment have been vested in the legislature. I had proposed that at least in the case of the President, the adjudicatory power should not be vested in the Senate but in the Supreme Court because vesting this power of adjudication in the Senate would make the provision on impeachment of the President a paper provision, unrealistic and almost unimplementable. The reason is that the Senate is generally made up of Members who belong to political parties and matters could be aggravated where the President would belong to the same party as the majority of the Members of the Senate. Besides, Madam President, adjudication is unquestionably a judicial function. And so, I regret that the adjudicatory power to impeach the President has been vested in the Senate, rather than in the Supreme Court.

I also have my reservation, Madam President, with regard to the provisions on the Ombudsman because I believe that instances could and would occur when the Ombudsman would have to be vested with prosecutory functions where his direction and attempts at persuasion will go unheeded. Without such prosecutory authority, the effectivity of the Ombudsman to serve as champion or watchdog of the people will be impaired. For these reasons, Madam President, I abstain.

THE SECRETARY-GENERAL, *reading:*

Jamir		Monsod	Yes
Laurel	Yes	Natividad	Yes
Lerum		Nieva	Yes
Maambong	Yes	Nolledo	

MR. NOLLEDO. I am voting yes, Madam President, and I would like to explain my vote for two minutes.

THE PRESIDENT. Please proceed.

COMMISSIONER NOLLEDO EXPLAINS HIS VOTE

MR. NOLLEDO. Madam President, the present and future generations of Filipinos will certainly look back with gratitude to this day when the 1986 Constitutional Commission approved on Third Reading the report of Commissioner Monsod's Committee on Accountability of Public Officers. The said report contains provisions creating the Office of the Ombudsman in the concept as this is understood and proven most effective in Scandinavian countries. An ombudsman is an official critic, a mobilizer, a watchdog and a protector. He is an intercessor for and a guardian of the rights of the downtrodden, as against the government. Being truly a new office in our country and considering our graft-ridden and bureaucratic way of governing our country, the ombudsman will certainly find himself swamped with complaints from aggrieved parties from all walks of life. As a suggestion to the appointing power, an ombudsman should be a man full of vigor and energy, with highest competence, with unassailable integrity and with a magnanimous heart. For in the words of Jose Maria Escriva, magnanimity connotes a large heart wherein many can find refuge.

Today, Madam President, my dream of having a true ombudsman in the Philippines, nurtured by me since my earlier years as lawyer, shattered during the 1971 Constitutional Convention because of Marcos' unjust intervention in the affairs of the convention, was realized.

Thank you, Madam President.

THE SECRETARY-GENERAL, *reading:*

Ople	
Padilla	

COMMISSIONER PADILLA EXPLAINS HIS VOTE

MR. PADILLA. Madam President, I vote affirmatively, but I wish to state that this Article on Accountability of Public Officers mentions the Sandiganbayan as the anti-graft court and the Tanodbayan as its prosecuting arm, and this should cover the crimes committed by public officers or crimes against public administration, punishable under Title VII of the Revised Penal Code. However, under the Marcos regime, the Sandiganbayan's jurisdiction was extended to murder cases like the Aquino-Galman case. In the case of *Lecaroz vs. Sandiganbayan,* 128 SCRA 324, this jurisdiction was extended to a case of coercion committed by a municipal mayor.

I hope that the clear distinction now between the Sandiganbayan as the anti-graft court and its prosecuting arm, the Tanodbayan, will be limited to Title VII of the Revised Penal Code, especially now that we have the Commission on Human Rights. I also hope, Madam President, that in the last amendment on Section 13, regarding the recovery of properties unlawfully acquired by public officials, and where we mentioned the word "transferred." this should be understood as including nominees of public officials who may be guilty of having ill-gotten wealth.

Thank you, Madam President.

THE SECRETARY-GENERAL, *reading:*

Muñoz Palma		Reyes de los	
Quesada		Rigos	
Rama		Rodrigo	
Regalado			

MR. RODRIGO. Madam President, may I briefly explain my vote?

THE PRESIDENT. Please proceed.

COMMISSIONER RODRIGO EXPLAINS HIS VOTE

MR. RODRIGO. I vote yes, although I have misgivings on two points. First, the creation of the Ombudsman. I agree with the idea; however, in this provision, I am afraid that it will not be as effective as expected by the people. We might disappoint the people. We might raise their hopes only to be frustrated later on, because the only power of the Ombudsman is to investigate. It does not have the power to prosecute. Another point is on impeachment. Under the 1935 Constitution, impeachment is initiated by a two-thirds vote of all the Members of the House. Now, in this provision, we reduced it only to a one-third vote.

I moved for the amendment of this provision to make it at least a majority vote but that was voted down. I only hope that the officers subject to impeachment, including the President, Vice-President and justices of the Supreme Court, will not be harassed by unfounded impeachment charges by one-third of the Members of the House who might constitute members of a bloc or an alliance of parties, now that we are initiating a multiparty system.

This notwithstanding, I vote yes.

THE SECRETARY-GENERAL, *reading:*

Romulo	Yes	Sarmiento	Yes
Rosales		Suarez	

MR. SUAREZ. Madam President, may I explain my vote?

THE PRESIDENT. The Gentleman has three minutes.

COMMISSIONER SUAREZ EXPLAINS HIS VOTE

MR. SUAREZ. Thank you, Madam President.

Even as I concede that the article in question contains a number of outstanding pro-people features, I am compelled to vote against the article. We have confirmed in this article the continued existence of two constitutional bodies vested with jurisdiction over cases of graft and corrupt practices of public officials, namely; the Sandiganbayan as the tribunal and the Special Prosecutor as its prosecution arm. A third arm in this tripartite scheme would be the Ombudsman or Tanodbayan, a sort of constitutional watchdog. I respectfully submit, Madam President, that its creation is unnecessary, not to say, duplicitous, redundant and expensive. It serves to make the administration of justice murky and confusing.

As a legal practitioner for more than 30 years, I am aware of the existence, not only of the Office of the Solicitor General, the Office of the State Prosecutor directly under the Minister of Justice, but also of the various city and provincial fiscals all over the country. All of these administrative bodies are involved in the resolution of matters involving the actuations of public officials. Worse, we might be creating a super body. We may be spawning provincial and regional vehicles of harassment. This particular portion of the article, to my mind, spoils the entire article, especially, when we consider that, in truth, we may be creating only a toothless tiger, capable, nonetheless, of unmitigated abuses, totally devoid of prosecutory powers.

In our present situation, Madam President, we cannot afford this constitutional luxury. In the words of Tanodbayan Raul M. Gonzalez, "If we create the Office of Ombudsman, giving it lofty powers but without teeth to enforce its findings, how will this new Ombudsman be effective?"

Thank you, Madam President.

THE SECRETARY-GENERAL, *reading:*

Sumulong		Tan	
Tadeo		Tingson	

MR. TINGSON. Madam President, may I say a few words to explain my vote?

THE PRESIDENT. The Commissioner has three minutes.

COMMISSIONER TINGSON EXPLAINS HIS VOTE

MR. TINGSON. I vote yes, Madam President, and I try to get into a distance from this particular article of our Constitution, and I see the verdant forest, not the few rotting trees. I believe in the word "stewardship," and while we may not be able to write this particular word in our Constitution, I take it that "accountability" is synonymous with the word "stewardship," because we are indeed accountable stewards of our time, our talents and our treasures.

I vote yes, because I believe that our government should not only be responsive to the needs of the people, but that we should also be responsible in making that government work. I vote yes, Madam President, because I see in this article a norm of conduct, a code of ethics and that altogether, it becomes an incentive, a motivation not to become idle spectators but active participants in the building of a real democracy in our country. And I can see a prayer here, Madam President:

> Lord, give us men, Filipinos with hearts ablazed, all rights to love and all wrongs to hate. These are the Filipinos, government officials our country would need; these are the bulwarks of the State.

Thank you, Madam President.

THE SECRETARY-GENERAL, *reading:*

Treñas		Uka	
Villacorta	Yes	Villegas	Yes

THE PRESIDENT. I vote yes.

THE SECRETARY-GENERAL. Madam President votes yes.

SECOND ROLL CALL

THE PRESIDENT. The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Yes	Rama	Yes
Alonto	Yes	Regalado	Yes
Aquino	Yes	Reyes de los	Yes
Bennagen	Yes	Rigos	Yes
Foz		Rosales	
Garcia	Yes	Sumulong	Yes
Gascon	Yes	Tadeo	Yes
Jamir	Yes	Tan	Yes
Lerum		Treñas	
Ople	Yes	Uka	Yes
Quesada	Yes		

APPROVAL OF PROPOSED RESOLUTION NO. 456 ON THIRD READING
(Article on Accountability of Public Officers)

THE PRESIDENT. The results show 41 votes in favor, 1 against and 1 abstention.

Proposed Resolution No. 456 is approved on Third Reading.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NOS. 496 & 533
(Article on National Economy and Patrimony and Provision on Ancestral Lands)
PERIOD OF AMENDMENTS

MR. RAMA. I move that we take up the main subject scheduled for this morning which is the Article on National Economy and Patrimony. This was scheduled last week.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the committee will please occupy the front desk.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, the parliamentary situation is this: When we last discussed the article, the committee requested that we do not close the period of amendments because we were expecting the proposals on additional provisions or amendments from some Commissioners who had expressed their intention to do so. While the records show that we have made some deadlines, we believe that for circumstances that are not of the making of our Commissioners, we are entertaining now the additional proposals that were proposed to be made then. And there are two proposals that were made. We believe that copies of these have been circulated by, I believe, Commissioners Suarez and Garcia to the Members of this Commission and we intend to take them now, Madam President.

THE PRESIDENT. These proposals will constitute new sections.

MR. MONSOD. Yes, Madam President.

MR. DE CASTRO. Madam President, may I ask the committee a question?

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President.

Are these the only proposals to be taken up in this article?

MR. VILLEGAS. These are the only ones, Madam President.

MR. DE CASTRO. Thank you.

MR. GASCON. Madam President, I presented two proposals consisting of two additional sections in our meeting last Friday but I do not have a copy of them. So aside from those which they have, I have two proposals which the committee is aware of.

MR. VILLEGAS. Yes, we have copies of the proposals on foreign investment, national market and economic nationalism.

MR. DE CASTRO. Madam President, may I make another clarification from the committee.

THE PRESIDENT. The Commissioner will please proceed.

MR. DE CASTRO. How many proposals do we have, Madam President?

MR. VILLEGAS. There are actually five in our possession, Madam President. Commissioner Gascon wants to say for the record that they are not amendments but proposals.

MR. DE CASTRO. We request that we be furnished copies of these proposals because as of now, we only have two proposals on our desk.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

This is by way of a parliamentary inquiry which we would like to address to the honorable members of the committee who are now seated in front.

Madam President, we circulated the other day, in compliance with our undertaking, not only copies of the two new proposals, but also copies of what is captioned "Proposed Amendments to the Committee Report on National Economy and Patrimony." The idea being, Madam President, that we are inviting the Members of this distinguished Commission to take a step backward and look at the provisions already approved, which I understand number about 22 as of now. Now as correctly pointed out by the Honorable Monsod, we have a parliamentary problem regarding this discussion on the proposed amendments. That means this may, indeed, require either the filing of a seasonable motion for reconsideration or for a suspension of the Rules. That is only in connection with the proposed amendments to the provisions already approved.

On the other hand, Madam President, we have this parliamentary situation on the new proposals to the Article on National Economy and Patrimony. And as of yesterday, Commissioner Monsod confirms the fact that only two new proposals had been thus far submitted. This morning, I understand there are some more new proposals which are being submitted to the committee. So, my inquiry, Madam President, is: Which one should the body in its entirety take up first in the interest of the article in question? Are we going to discuss the proposed amendments to the sections already approved, or is it the Commissioner's thinking that it might be more practical and advisable to take up the new proposals? That is the subject of the parliamentary inquiry, Madam President.

THE PRESIDENT. What does the committee say?

MR. MONSOD. Madam President, it is the opinion of the committee that we should continue to discuss new provisions before we go back. After we have discussed all the new provisions, then we can discuss the parliamentary situation with respect to the possibility of their reconsideration or reopening. As a matter of fact, right after we have considered all the new provisions, we can close the period of amendments and then discuss the issue of their reconsideration, Madam President.

THE PRESIDENT. We have certain rules on that particular matter, but the Chair will not enter into any argument on that point. The Chair believes that it would be best to consider the new proposals because that would not involve any particular reference to the Rules.

MR. MONSOD. We submit, Madam President.

THE PRESIDENT. So the body will first consider those proposals which are in the nature of additional sections.

MR. SUAREZ. We submit to the discretion of the Chair, Madam President.

MR. COLAYCO. Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Parliamentary inquiry, Madam President. Are we to understand that the period of amendments is still open?

MR. VILLEGAS. Yes, Madam President, it has not been closed yet up to this session.

MR. COLAYCO. Does the Commissioner mean that after this no more amendments will be accepted?

MR. VILLEGAS. That is our thinking – we will close the period of amendments.

MR. COLAYCO. I understand there are several pending amendments. I want to be clear on this: If I should think of submitting another amendment, when would be the deadline?

MR. VILLEGAS. Today is the last day for the period of amendments.

MR. COLAYCO. Today, so tomorrow would be too late.

MR. VILLEGAS. Yes, Madam President.

MR. COLAYCO. Thank you.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May we now ask the proponents of the new provisions to make their amendments.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

I am submitting for the consideration of the committee a blanket proposal. We have had exhaustive debates and discussions on the approved provisions which constitute now the draft Article on National Economy and Patrimony. It has generated heated discussions, the effects of which we are not certain about up to now. So in order that we can cushion the impact, if necessary, of the approved provisions on national economy, it is my humble suggestion that we come up with a sort of omnibus provision, Madam President. I suggest that we incorporate in the Article on National Economy and Patrimony, as its last provision, a sort of omnibus subject covering the entire spectrum of said article.

I propose, Madam President, that we approve the following unnumbered section, which reads: "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, THE STATE MAY ADOPT ADDITIONAL (CORRECTIVE) MEASURES TO PROMOTE THE INTEREST OF FILIPINOS AND ENSURE THE DEVELOPMENT OF A SELF-RELIANT, PROGRESSIVE, AND INDEPENDENT ECONOMY."

We do realize, Madam President, that this may be in a way repetitive of what appears to have been approved as Section 1 of the Article on National Economy and Patrimony. Nonetheless, we would like to introduce a measure of flexibility or fluidity of international and national situations as they come up in the future.

We have to understand and admit the fact, Madam President, that the State is obligated to uphold the economic rights and ideals of the Filipino people to ensure their full and effective participation in the development of our economy.

This amendment provides the foundation for a solid basis for encouraging private initiative that is rooted in enabling Filipino private economic interest, represented by all sectors of society, to gain beneficial and effective control of the economy of the country.

More than enabling full participation by all in the economy, the government commits itself to be an active partner and/or pioneer in economic activities where private initiative and investment may be inadequate or timid to participate. It is a sort of a general provision, providing for some measure of flexibility in promulgating economic programs towards national economic development.

Thank you, Madam President.

THE PRESIDENT. Commissioner Suarez, I just want to be clarified. Was there another word after "ADDITIONAL"?

MR. SUAREZ. None, Madam President. I am only sort of, in parentheses if necessary, changing the word "ADDITIONAL" to "CORRECTIVE." That is only an alternative phrasing, but actually the word I used is "ADDITIONAL."

Thank you, Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Will the Commissioner entertain some clarificatory questions?

MR. SUAREZ. Gladly, Madam President.

FR. BERNAS. The proposal starts with the word "NOTWITHSTANDING." Is that to be understood to mean that the State, through the legislature, may pass legislation contrary to the provisions of the article?

MR. SUAREZ. Not necessarily contrary, but the amendment would provide additional or corrective measures.

FR. BERNAS. So it is not meant to authorize the legislature to disregard any provision of the Constitution.

MR. SUAREZ. The Commissioner is correct. The amendment should not be taken in the light that we are negating the constitutional provisions already approved and adopted. We are only providing for some measures of flexibility in adopting additional measures which may be corrective of the situation, promoting the interest of Filipino enterprises, Madam President.

FR. BERNAS. When the Commissioner introduced this amendment, is it merely his intention to emphasize that the State can act independently of this proposed provision?

MR. SUAREZ. The Commissioner is right, Madam President.

FR. BERNAS. So this is being put in merely for emphasis.

MR. SUAREZ. Not only for emphasis, but for the possibility that what may have been adopted as a policy in this Constitution may not really be promotive of the interests of the Filipinos and, in that instance, then the State may adopt some corrective measures which are not totally nugatory of the economic principles and policies enunciated under these approved provisions, Madam President.

FR. BERNAS. Madam President, in my reading of the provisions so far approved, I see some which are clearly mandatory and prescriptive and it is not the Commissioner's intention to authorize the legislature to contradict what is mandatory and prescriptive; for instance, a maximum of 40 percent equity participation of foreigners. That is prescriptive. So is the Commissioner not authorizing the legislature to raise that maximum?

MR. SUAREZ. No, not in that sense, Madam President.

FR. BERNAS. At any rate, the legislature is already authorized to lower that.

MR. SUAREZ. I think there is an increase in the percentage under one approved section of the article in question, Madam President. We are not contemplating it in that manner.

FR. BERNAS. My main question is: If we were not to approve the Commissioner's proposal, would not Congress already have the flexibility to do all these?

MR. SUAREZ. We are afraid it may not possess that kind of flexibility in the manner we have it in mind as already contained in the approved sections, Madam President.

FR. BERNAS. Will the Commissioner be more specific, Madam President.

MR. SUAREZ. For example, in the matter of giving priority to agricultural development as against industrial development, in this provision, we would be providing a degree of flexibility for the State to determine whether or not our economy based on agricultural development would really promote the best interest of the Filipinos. In other words, the State can reverse the direction and concentrate on rapid industrialization, rather than on the development of our agricultural economy.

MR. VILLEGAS. Madam President, may I just make a correction. There is absolutely nothing in the approved sections of the article that states that agriculture will have priority.

MR. SUAREZ. We are only discussing it on the hypothetical basis. I think that is how I take the question addressed by Father Bernas.

. FR. BERNAS. And that precisely is my problem, too. Because the way I read that provision on agriculture in relation to industrialization, it is not prescriptive. As the chairman of the committee himself has repeatedly said, economy is an inexact subject. So it seems to me that the provision is formulated in a general way. But for me, the most it says is that it should be a combination of agriculture and industrialization.

MR. SUAREZ. It should be like that.

FR. BERNAS. That is the way I understand it, Madam President. I do not understand it as saying that agricultural development should have priority.

MR. SUAREZ. No, except for the wording "based on agricultural economy" as already approved under Section 1, Madam President. In other words, industrialization, as now envisioned in Section 1, must be based on agricultural economy. And that gives a lot of confusion in the interpretation. That is why in our proposed amendment, instead of the phrase "based on," we use the phrase "TOGETHER WITH" or as suggested by Commissioner Monsod probably, we can employ the words "CONSISTENT WITH." Now in order to remove any confusion in this regard, if there is any confusion in the interpretation, we are providing this general provision: That we let the State be the one to determine exactly the kind of policy that will promote the interest of the Filipinos.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, we believe that the record of the discussions on the floor does not reflect what Commissioner Suarez is saying with respect to agricultural economy. If, on the other hand, his interpretation and the purpose of his amendment are precisely to give Congress a *carte blanche* or an absolute authority to reverse or override that kind of interpretation, then we believe that his amendment is out of order because it constitutes a reopening of the issues in Section 1.

FR. BERNAS. Madam President, I would perhaps put it differently that if we approve the proposed amendment of Commissioner Suarez on the understanding that he is correct in his reading, that the provisions we have approved prescribed a certain priority between "agriculture" and "industrialization," in effect, he would be authorizing Congress to go against what is prescribed. And we are putting on record an interpretation of Section 1 which makes that relationship prescriptive rather than merely hortatory or suggestive.

MR. SUAREZ. Is the Commissioner suggesting, Madam President, that we should do away with the introductory phrase: "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE"? We would have no objection to that, in order to make a direct positive statement about possible State interference in the future.

FR. BERNAS. A little more than that, Madam President. I am hoping that an interpretation which makes Section 1, second paragraph, prescriptive will not be read into the record, because once it is read into the record and accepted as the interpretation, then Congress will be bound by it.

MR. SUAREZ. We agree to the procedure outlined by the Commissioner. Maybe, we really have to do away with this introductory phrase, if only to concretize what he has in mind, devoid of interpretative statements.

FR. BERNAS. My main problem is that if the Commissioner makes his interpretation of the second paragraph of Section 1 as the basis for his proposed amendment, in effect he seems to be admitting that the second paragraph about industrialization and agriculture is prescriptively saying that agriculture should have priority, which is not I think its meaning.

MR. SUAREZ. We see the thrust of the Commissioner's observation and we are agreeable not to read into the record any form of interpretation, also with respect to the second portion of our proposal, Madam President.

FR. BERNAS. So that if the Commissioner reads most of these provisions as not prescriptive, then it would seem that his proposal would be unnecessary.

MR. SUAREZ. Not really, Madam President.

FR. BERNAS. It gives Congress greater flexibility, Madam President.

MR. SUAREZ. Yes, that is the purpose. In a general sense, that is the principal thrust in submitting this proposal, Madam President.

FR. BERNAS. But I guess our differences lie in our reading of the provisions of the degree of flexibility which Congress has. I see Congress as already possessing the flexibility that is desired by the Commissioner's proposal.

MR. SUAREZ. The Commissioner has a different perception of the situation but we would like to clear up all of these possible confusions in the interpretation of the thrust of the approved Section 1 of the Article on National Economy, Madam President.

FR. BERNAS. Just one final observation, Madam President. A general statement like this will not really clarify anything.

MR. SUAREZ. I beg the Commissioner's pardon, Madam President.

FR. BERNAS. A general statement, as the Commissioner has worded it, will not clarify anything which might be considered as unclear.

MR. SUAREZ. No, it is not meant to clarify anything. It is meant only to provide, as I have been saying repeatedly, some degree of fluidity and flexibility on the part of the administrators of our country.

FR. BERNAS. Thank you, Madam President.

MR. LAUREL. Madam President.

THE PRESIDENT. Commissioner Laurel is recognized.

MR. LAUREL. It is true, and there can be no doubt about it, that what the Constitution does not prohibit will be within the competence of the law-making body and the executive department to step into. So I do not think there is any necessity of introducing and adopting the proposed amendment.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

I would like to ask the proponent some clarificatory questions.

THE PRESIDENT. The Commissioner will please proceed.

MR. NOLLEDO. Is Commissioner Suarez willing to entertain clarificatory questions?

MR. SUAREZ. Most willingly, Madam President.

MR. NOLLEDO. Madam President, based on the questions of Commissioner Bernas, I think we are agreed that the corrective measures shall take the form of legislation.

MR. SUAREZ. The Commissioner is right, Madam President.

MR. NOLLEDO. This is in connection with Section 3 of the Article on National Economy and Patrimony, specifically the second and third paragraphs, where the President is constitutionally authorized to enter into service contracts and also constitutionally required to notify Congress of every such service contract. I think the Commissioner is aware that the Bill of Rights provides that no law shall be passed abridging the obligations of contracts. Since the Commissioner used the words "CORRECTIVE MEASURES," can Congress adopt corrective measures with respect to existing service contracts entered into under Section 3 of the article?

MR. SUAREZ. In my humble opinion, the answer is in the affirmative, especially considering the mandatory requirement that the President should notify Congress of every contract entered into in accordance with this provision within a period of thirty days from its execution. That provision would be meaningless not unless we vest unto Congress the right to enact measures, corrective, if necessary, of the situation, Madam President.

MR. NOLLEDO. I precisely asked that question, Madam President, because it seems that there is a general objection to the proposal of Commissioner Suarez that the provision will serve no purpose.

I personally approached the chairman of the committee and told him that the last paragraph, which is the third paragraph of Section 3, would really be meaningless if Congress cannot do anything with respect to the service contract entered into by the President, as authorized by the second paragraph. If we just notify Congress by furnishing it with a copy of the contract and without giving it any power to review the same and take remedial measures, like the corrective measures proposed by Commissioner Suarez, then that provision would be truly meaningless.

Thank you, Madam President.

MR. SUAREZ. I thank the Commissioner.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, I would just like to ask the proponent certain clarificatory questions.

Am I right in my interpretation that the Commissioner's proposed amendment is in anticipation of certain problems which the State may encounter in applying its plenipotentiary powers for promoting the national interest?

MR. SUAREZ. The Commissioner is absolutely correct, Madam President.

MR. VILLACORTA. And that one of these problems is whenever the State would like to protect certain local enterprises and that State action is challenged in the Supreme Court on the basis of Section 1 which limits protection to unfair foreign competition. Does the Commissioner anticipate that as a problem, Madam President?

MR. SUAREZ. That is exactly one of the factors which motivated us to formulate this omnibus provision, Madam President.

MR. VILLACORTA. I asked that question because the State, as we know, has, for reasons of national interest and security, to protect local companies even against fair competition. But the present Section 1 will tie the hands of the State, and we realize how long it takes for a Supreme Court litigation to be resolved. Does the Commissioner anticipate that as part of the problem, Madam President?

MR. SUAREZ. Yes, Madam President.

MR. VILLACORTA. Madam President, if this is one of the problems anticipated and which the proponent seeks to provide in his amendment, how would the committee react to this anticipation of that particular problem?

THE PRESIDENT. Are there any other comments before the committee answers? *(Silence)*

Commissioner Davide is recognized.

MR. DAVIDE. Madam President, will the proponent yield to some questions?

MR. SUAREZ. Yes, Madam President.

MR. DAVIDE. This would refer more particularly to the Commissioner's answer to the question of Commissioner Nolledo in the sense that in one aspect on service contracts, he admitted that the corrective measure may amount to even a review or the setting aside of the contract. Did I get the Commissioner correctly?

MR. SUAREZ. That is correct, Madam President, except that it may be a little more complicated than that because, as also correctly pointed out by the Honorable Nolledo, there is another colliding constitutional provision regarding the nonimpairment of the obligations of contracts.

MR. DAVIDE. Yes. That is exactly the point I am raising because if that would happen, which shall prevail, the provision in the Bill of Rights regarding the nonimpairment of contracts or this broad authority now covered by the Commissioner's proposal?

MR. SUAREZ. We would say that this provision we are proposing should be controlling in that regard because the two contracting parties are not strictly private – one is the government and the other could be a private individual or corporation, firm or enterprise.

MR. DAVIDE. Yes. In other words, under the Commissioner's proposal, we will now allow Congress to propose measures or to enact legislations which would impair the obligations of contracts which is guaranteed under the Bill of Rights, and that should be taken merely as an exception.

MR. SUAREZ. It could amount to that, Madam President, under justifiable circumstances.

MR. DAVIDE. What would be the possible justifiable circumstances which could authorize Congress to violate, impede or impair this nonimpairment of contract clause in the Bill of Rights?

MR. SUAREZ. Madam President, this was pointed out in our proposal that it must be promotive of the interest of the Filipinos, such that if it does not promote the interest of the Filipinos but is in fact prejudicial and damaging to the Filipino interest, then the State can come in through Congress to provide the necessary corrective measures.

MR. DAVIDE. Madam President, service contracts may be allowed by Congress itself. Would it mean that Congress by an act declare itself by a succeeding act that its previous act was not promotive of people's interest?

MR. SUAREZ. Madam President, my impression is that under the approved Section 1, Congress is without authority to enter into service contract.

MR. DAVIDE. It is not. Congress is mandated to provide the law.

MR. SUAREZ. Yes, Madam President.

MR. DAVIDE. To allow the execution of service contracts, there must be a law for said service contracts.

MR. SUAREZ. There must be a general law providing for the terms and conditions under which particular service contracts can be entered into by the executive department, Madam President.

MR. DAVIDE. Yes, Madam President.

MR. SUAREZ. And, therefore, if necessary in the future and pursuant to this general provision, Congress could enact corrective measures in order that it can ensure that entering into service contracts would only promote the Filipino interest.

MR. DAVIDE. Does not the Commissioner contemplate a situation where such a corrective measure should not be given retroactive effect in order that it will not violate the nonimpairment of contract clause in the Bill of Rights?

MR. SUAREZ. The Commissioner is right. That is why when we say "CORRECTIVE," that is practically prospective in character, Madam President.

MR. DAVIDE. If it is prospective in character, the very act which is supposed to be corrected will continue since it may, to make it applicable to an existing act or contract, continue to be not promotive of the common good.

MR. SUAREZ. If the Commissioner is thinking strictly in terms of enactment of legislative measures, he is right, Madam President. But, probably, what can be done after that would be to conduct an investigation similar to what was done before by the Senate Blue Ribbon Committee.

MR. DAVIDE. But cannot the matter be approached in this way? May a service contract executed by the Chief Executive pursuant to a general law authorizing the service contracts be set aside or nullified because it violated the law itself which allowed the said service contract?

MR. SUAREZ. In a situation envisioned by the Commissioner, it may have to pass through the judicial department, Madam President.

MR. DAVIDE. But this proposal would rather not prevent the judiciary from inquiring into the validity of a service contract entered into by the Chief Executive.

MR. SUAREZ. Definitely not, Madam President.

MR. DAVIDE. So under the Commissioner's proposal, we will have two remedies actually – judicial and legislative actions.

MR. SUAREZ. Yes, Madam President.

MR. DAVIDE. Another point, Madam President. The proposal is precisely to provide corrective measures to possibly offset the effects of Section 1 of the proposed Article on National Economy and Patrimony in order that we can provide ample, sufficient and adequate protection to Filipino entrepreneurs and the Filipinos themselves.

MR. SUAREZ. Yes, the Commissioner is right.

MR. DAVIDE. Madam President, I notice, however, that in Section 1 of the proposed Article on National Economy and Patrimony, the national economy to be developed is a self-reliant and independent economy.

The Commissioner's proposal included "PROGRESSIVE." Would this not necessarily expand the scope of Section 1 and would now justify the use alone of the word "PROGRESSIVE" as an addition? Would this not overhaul completely all the provisions of the Article on National Economy and Patrimony?

MR. SUAREZ. Not necessarily, Madam President. This is only an additional criterion or factor in determining whether or not corrective or additional measures should be enacted or promulgated by Congress. The basic features of the Article on National Economy should really be concentrated on self-reliant and independent economy as reflected in Section 1.

MR. DAVIDE. So if the idea is to align this with Section 1 in the sense that we will have to allow Congress flexibility to provide for corrective measures, would the Commissioner not agree to the deletion of the word "PROGRESSIVE"? So we maintain the original Section 1 on the nature of the national economy.

THE PRESIDENT. Commissioner Laurel is recognized.

MR. LAUREL. Madam President, with all due respect to the Gentlemen on the floor, gusto ko lang sabihin na wala naman tayong dapat pagtalunan dito. The only question is whether or not the Constitution prohibits the other two branches of the three branches of the government from doing anything. It is a question of bawal ba o hindi bawal. Kung ipinahihintulot ng Saligang Batas, iyong hindi ipinagbabawal ay kayang gawin ng lehislatura at ng executive. Kung ang isa ay mayroong duda at siya ay naaapi, pumunta siya sa Korte Suprema. From the the facts, the laws arise. Each and every individual case noong mga nagsasabing siya ay agrabiyado ay maaaring idulog sa Korte Suprema upang alamin kung ipinahihintulot o hindi ang kaniyang ginawa. Kung hindi ipinahihintulot ay huwag gawin. Wala tayong dapat pagtalunan. Basta ipinahihintulot, to paraphrase Commissioner Uka, at hindi ipinagbabawal na ipasok ay ipasok; kung hindi, ay huwag ipasok. In other words, I feel, Madam President, with all due respect to the Members of this body, we have discussed the matter well enough.

MR. DAVIDE. I would have no further questions, Madam President.

MR. SUAREZ. I thank the Commissioner for his observation.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, the matter of the nonimpairment of the obligation of contracts was brought up. But, Madam President, is it not a fact that in existing jurisprudence, from *Ruther vs. Esteban* all the way down, the guarantee of the obligation of contracts in the Bill of Rights yields to a reasonable exercise of police power?

MR. SUAREZ. Definitely, that is why although we suggested that all of these corrective measures should be prospective in application and operation, the proposal will not deprive any private taxpayer to contest the legality and validity of those contracts already approved.

FR. BERNAS. Madam President, what I am saying is precisely more than that because, for example, when the Tenancy Law provided for a 60 to 40 ratio, Congress passed a new Tenancy Law making it 70 to 30. The question is: Did that impair the obligation of contracts? And the answer is: Yes. But it was a valid exercise of police power, and even existing 60 to 40 contracts had to be transformed to 70 to 30.

MR. SUAREZ. I think that is a nondebatable issue, Madam President. We agree.

FR. BERNAS. So that even without authorizing Congress to make corrective measures, service contracts can be corrected by the exercise of police power.

MR. SUAREZ. That again is a debatable issue, Madam President. That is why we want to clear it up; we want to make it very clear in this general provision that Congress possesses that power.

FR. BERNAS. But unless the Commissioner specifies what the corrective measure is, he really does not make it very clear. The only way of making it clear is by eliminating the nonimpairment contract clause in the Bill of Rights.

MR. SUAREZ. No, that is not the intention. Precisely, we say these contracts must be honored, but it does not deprive the Congress to introduce additional measures by way of correction of the terms and conditions that may have proven to be detrimental to the interest of the Filipinos.

FR. BERNAS. My only point, Madam President, is that even without stating it in the Constitution, Congress already has the power to correct the contracts.

MR. SUAREZ. Yes, we get the drift of the Commissioner's argument, Madam President.

FR. BERNAS. I thank the sponsor.

MR. ROMULO. Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. We subscribe fully to Commissioner Bernas' proposition. The police power of the State is paramount. The nonimpairment clause, as most legal scholars will agree, is almost a fiction. It always yields to the police power of the State. That is also how legislation has progressed, despite any provision in a contract. I believe that as far as jurisprudence is concerned, contracts, especially the ones mentioned in this article which involve natural resources, are always subject to congressional law, prospective or retroactive.

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. May I know whether or not the Honorable Suarez is willing to accept a slight amendment to the initial sentence of his proposal?

MR. SUAREZ. May we hear the proposal, Madam President.

MR. AZCUNA. Madam President, instead of "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE," we substitute "NOTHING IN THIS ARTICLE SHALL PRECLUDE THE STATE FROM ADOPTING CORRECTIVE MEASURES," so as not to emphasize an antagonism.

MR. SUAREZ. We accept that proposal, Madam President.

MR. AZCUNA. Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, in the interpellation by Commissioner Villacorta of Commissioner Suarez, I believe the issue was defined when he asked the question of whether or not the purpose of this section is to give Congress the power to protect industries or whether the competition was fair or unfair. He, in fact, defined the purpose of this amendment which is contrary to the intent of Section 1. Therefore, the position of this committee is that the proposal partakes of the nature of a reopening of Section 1 because Section 1 is quite clear that the protection will be against unfair competition. Even under the interpellation by Commissioner Bernas, the answers of Commissioner Suarez also show what the intent was. And whether or not we use "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE," it is clear that what really happens here is that this section would give Congress the right to override or disregard the rest of the provisions of the article.

And by way of parenthetical remark, Madam President, if that is the case, then what we should do is to have an omnibus clause in this entire Constitution which would say the same thing: That notwithstanding anything in this Constitution, the State may adopt whatever additional or corrective measures it has. Let us put this after each and every article – after the Social Justice, the Legislative and the Judiciary Articles – so that then it would negate the purpose, the spirit and the letter of the Constitution.

Madam President, we consider this kind of omnibus amendment out of order. We consider it a reopening of Section 1 and, therefore, the committee refuses to accept it.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. In fairness to Commissioner Suarez, he said in his remarks that the purpose of this proposed amendment is to cushion the impact of, and not to contradict or dispute, Section 1. That he made clear in his remarks.

Thank you, Madam President.

MR. MONSOD. Madam President, I agree that Commissioner Suarez said that, but in the interpellation by Commissioner Villacorta, his answer was also very clear.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. The remarks of Commissioner Monsod have made things a little more unclear for me, because Commissioner Monsod's interpretation is that only unfair competition by foreigners can be prohibited by the State. I think the language of Section 1 is much broader than that when it says: "The State shall protect Filipino enterprises against unfair foreign competition and trade practices." Section 1 does not say that the State shall protect Filipino enterprises only against unfair competition. This is not an exclusive statement of what the State can protect Filipino enterprises against. The State can protect Filipino enterprises against foreign competition even if it is fair but harmful to the best interest of the nation.

So I would like to hear the official interpretation of the committee as far as this line is concerned because as it stands now, it does not say that only unfair foreign competition can be prohibited. But among other things, unfair competition should be prohibited. But if there are other forms of competition, even if they are fair but harmful to the best interest of the Filipinos, then the State may also prohibit them.

MR. MONSOD. Madam President, I believe that in the discussions on this issue, we precisely said that if the competition is harmful to the interest of the Filipinos, then it is unfair.

MR. VILLEGAS. Madam President, it is very clear on record that we said the government can declare as unfair anything that hurts Filipino enterprises and that the word "unfair" in Section 1 does not partake of any unique economic or legal interpretation given by international organizations since we can declare as unfair anything that hurts Filipino enterprises.

MR. LAUREL. Madam President, the committee, through Commissioner Monsod, has raised a point of order. I ask that the Chair make a ruling on that point of order.

THE PRESIDENT. The point of order of Commissioner Monsod is whether or not this proposed new section is, in fact, an amendment to Section 1 or to all the sections of the article.

MR. MONSOD. Yes, Madam President. The committee believes that the proposal as stated is really a *carte blanche.* It is really an absolute authority to negate or override all the provisions that have been promulgated or approved by this body. This was highlighted in the exchange between Commissioner Villacorta and Commissioner Suarez, in which the former asked the latter whether this provision would now authorize Congress to protect Filipino industries against fair or unfair foreign competition. In other words, contrary to the letter of Section 1. The answer was yes. Now this really partakes of an amendment to reopen Section 1. The committee's stand on its interpretation is that anything prejudicial to the greater interests of the Filipino people can be considered unfair and, therefore, is subject to action by Congress. But in the debates on Section 1, precisely the issue was whether or not to delete the word "unfair." So anything presented that addresses that same issue reopens Section 1.

THE PRESIDENT. Commissioner Laurel is recognized.

MR. LAUREL. In other words, Madam President, it would look like we are not preparing any fundamental law, any organic act, that will be superior to ordinary statutes of the law-making body. It is just like we are adopting any constitution that is supposed to be obeyed by the entire law-making body. The President would have to sign statutes adopted by the law-making body. What are we here for?

MR. VILLACORTA. Madam President, I was alluded to.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. I understand that we in this Commission have to be guided by certain rules. But I wonder whether on this particular issue we can afford not to be too technical in order that we may allow the fullest ventilation of ideas on this particular subject and, more importantly, to save the Chair from making a ruling on whether or not the motion is out of order. There must be a way of sharing each other's ideas on this subject and resolving the issue, not purely on the basis of technicality.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

Before the Chair makes a ruling, I beg to disagree with Commissioner Monsod. This is an amendment being presented and just because there is a purpose to cushion the effects of Section 1 does not necessarily mean that we are reopening it. He merely says it has the effect of reopening Section 1. If we have approved a particular section, it does not prohibit the Commission from qualifying that section by another provision. So I feel that there is no reopening of Section 1.

MR. LAUREL. Madam President, since the idea is to enable the law-making body under the Constitution we are adopting to override the Constitution itself and presumably after we shall have adopted it, what kind of a Constitution are we working on? I repeat, what kind of a Constitution are we working on here? I asked because the only question is whether it is authorized or not. That is as simple as that. If the law-making body is prohibited from adopting any measure, the only reason is that it is not allowed to do so under the Constitution.

In other words, if we put into the Constitution any provision that would enable the law-making body to do away with a constitutional provision, then there will be no need for the Constitution we are working on here.

I move for the previous question.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, I just want to clarify because my interpellation was referred to as an argument against the amendment of the Honorable Suarez.

What I simply asked, Madam President, was whether the proponent anticipated certain problems arising from Section 1. And he said that it was only one of the problems anticipated by this amendment. My particular reference, Madam President, was the plenipotentiary powers of the State, which was affirmed by the committee. If the committee finds nothing wrong with strengthening or reaffirming the police powers of the State, then I cannot understand why it is now against this amendment, which is practically an omnibus amendment.

But before the Chair rules, if ever it will rule on this point of order, may I just ask the committee a simple question. What basically is the philosophy of most of the provisions of the Article on National Economy? Is it a *laissez-faire* economic philosophy that the committee or most of its members are espousing?

MR. VILLEGAS. Madam President, it is very clear in our record that the economy we want is that based on private initiative which is very compatible with the dignity of every human being and that the State can intervene whenever there is default on the part of private individuals and whenever the common good so requires.

So as we will remember, the phrase "mixed economy" was used, but with emphasis on private initiative.

MR. VILLACORTA. Going back to my question, is it *laissez faire,* Madam President?

MR. VILLEGAS. It is not, Madam President. *Laissez faire* has a very peculiar interpretation in political and economic history and it is usually understood as untrammeled irresponsible enterprise.

MR. VILLACORTA. In other words, it is not pure competition?

MR. VILLEGAS. No, it is not.

MR. VILLACORTA. I asked because I find it hard to reconcile that philosophy, which is a watered-down version of *laissez faire,* with several sections of the article. And that is why I concur perfectly with the Honorable Suarez that this omnibus provision is necessary, precisely to embody what the Commissioner has just said that we do not want the *laissez-faire* economic philosophy to prevail in this Constitution and in our land. I think it is important that even if the Chair rules that we are out of order, we further contemplate on this issue, because it cuts right through the heart of the Constitution and the very philosophy and future of our society. I plead to the Chair not to rule us out of order.

If I may just quote from a very reputable newspaper, *Veritas:*

> A reminder to the Constitutional Commission seems necessary. The willingness to reconsider and reopen debates and open-minded approach to issues do not necessarily reflect a lack of conviction nor a wavering of principle. These men and women must keep in mind that there is no point to the exercise if they are not ready to rethink their thoughts, or at least, to rework the expression of their thoughts.

The *Malaya* editorial of August 20 states:

> In the end, the people will judge the Con-Com not by the speed with which it met its deadline, nor the calmness or smoothness of its proceedings, but by the product that it will offer them.

In that light, Madam President, I beg the indulgence of the Chair to allow the continuation of the discussions on this matter and not to consider the amendment of Commissioner Suarez out of order.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I just want to make it of record that when the committee made its comments, it was because there were no other discussions. Everybody had already a say. That was the only time when the committee was asked what its position was. Therefore, I want to make it of record that there has been no termination here of anybody who wanted to speak. Please, let us be fair to the committee.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Before the Chair rules on the motion to rule the amendment out of order, let me just say that my opposition to the proposed amendment is not because it is out of order, but because I find it unnecessary. However, it would be out of order indeed if we give a narrow interpretation to the meaning of the word "unfair." But if, as the committee said, "unfair" means anything harmful, then it is not out of order and the problem would be more on style than on substance. The problem seems to be on the use of the word "unfair" and perhaps, that can be subjected to examination by the Style Committee because it does not seem to express exactly what the committee means.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President. The comment of Commissioner Monsod that the proposal is out of order relies on the fact that it states: "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE." From the interpellations made, it appears that Congress can overhaul the whole section on patrimony on the reason of corrective measures, promoting the interest of the Filipino people, et cetera, which would give Congress, as what the Honorable Laurel said, the right to make its own Constitution. Congress can disregard by this proposal what this Commission is doing at this time. To overhaul the whole section by this phrase "NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE" would be making Congress the constitutional body and not this Commission. That is the reason the Honorable Monsod said the proposal is out of order.

Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, in deference to our fellow Commissioners, may we disregard the issue of being out of order at this point and just vote on the proposal of Commissioner Suarez, without considering it as a reopening of Section 1 in order that we may already resolve the issue.

MR. LAUREL. Madam President, it is not really my intention to press a ruling on the matter mentioned. I simply feel that the matter has been discussed well and long enough. So I would suggest that the matter regarding the point of order be forgotten and that we resolve on the merits of the proposal.

MR. BENGZON. Without considering it as a reopening of Section 1, Madam President.

THE PRESIDENT. And of all the other sections in the article.

MR. BENGZON. Yes, Madam President.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

May I express my personal gratitude to Commissioners Monsod, Laurel and Rama for disregarding technicalities in the interest of our country. I thank the Gentlemen very much.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Is it the intention of the Commission to proceed on the amendment of Commissioner Suarez without considering it as a reopening of Section 1?

MR. VILLEGAS. Yes, Madam President.

MS. AQUINO. Then in that spirit, may I ask Commissioner Suarez whether or not he would be willing to yield to a major amendment to his proposal.

MR. SUAREZ. May we hear the proposed amendment, Madam President.

MS. AQUINO. I was attempting to abstract the principle of the Commissioner's proposal and at the same time balance the interest of Section 1 as has been previously approved. I would like to propose an alternative formulation which is as follows: "CONGRESS SHALL, IN ALL INSTANCES, ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT."

MR. SUAREZ. That sounds sensible.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We believe that that declaration belongs to the Article on the Declaration of Principles.

MR. SUAREZ. Is it not a safety clause as we propose it to be?

MS. AQUINO. It can be interpreted as a constitutional refuge or some kind of a breakwater that will be a supplement or a reinforcement for the interpretation of Section 1.

MR. MONSOD. Madam President, the entire Article on National Economy and Patrimony is all in the interest of the Filipino. As a matter of fact, the first sentence already conveys that message. If we go through it, that is the sense of the article. And if at all that belongs to the Article on the Declaration of Principles, the entire Constitution considers the interest of the Filipino paramount, Madam President.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I am not inclined to a cavalier dismissal of the proposal as being a surplusage or a redundancy. The matter of national economy and patrimony is transcendental and we cannot overemphasize the underpinnings of nationalism and independence in the national economic development programs of the country.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. I have a proposed amendment similar to the amendment proposed by Commissioner Aquino. It was distributed to all the Members of the Commission. It reads: "THE STATE SHALL PROMOTE THE ECONOMIC INTEREST OF THE FILIPINO PEOPLE TO ENABLE THEM TO GAIN EFFECTIVE AND BENEFICIAL CONTROL OF ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT THROUGH APPROPRIATE MEASURES THAT WILL SUPPORT ALL SECTORS OF SOCIETY, TO PARTICIPATE IN THE OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY."

Madam President, it is already 12:54 p.m. May I ask for a suspension of session so that we can harmonize all our proposals.

MR. SUAREZ. I join Commissioner Sarmiento in his prayer for a suspension of session, Madam President.

MR. VILLEGAS. I would treat the proposals of Commissioners Sarmiento and Aquino as separate amendments. But I think we should make a decision on the proposal of Commissioner Suarez which is also a separate amendment.

THE PRESIDENT. The proposed amendment of Commissioner Suarez was amended by Commissioner Aquino and it is accepted by the Commissioner.

MR. VILLEGAS. I do not think Commissioner Suarez accepted the amendment at this stage yet, because I was going to suggest that we try to blend all of these proposals together, the ones submitted by Commissioners Aquino and Sarmiento.

THE PRESIDENT. Yes, but the Chair would rather have right now a vote on this particular proposed amendment of Commissioner Suarez, as amended by Commissioner Aquino.

MR. VILLEGAS. We agree, Madam President.

MS. AQUINO. Madam President, we ask for a suspension for us to be able to agree or at least agree to disagree on the alternative formula that Commissioner Suarez and I would like to incorporate.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 12:55 p.m.

RESUMPTION OF SESSION

At 1:05 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

I would like to state that when the Commissioners stand up here with their own honest convictions, I am really warmed. And so with the clarifications and various statements made on the floor, not only by the members of the committee, but also by our colleagues – particularly with statements like " 'unfair' has nothing to do at all with economic or international implications but only as we define it here in the Constitutional Commission and it is anything that is harmful and protective of Filipino interests"; "Congress, in the exercise of the police power of the State, possesses the power to make or institute corrective measures even with respect to service contracts which may not be promotive of the interests of the Filipinos"; "the interests of the Filipinos are always paramount" – I am compelled to withdraw my proposal, Madam President.

This is on record, and I leave it to Commissioner Aquino to press for her own proposal.

Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, the committee appreciates the manifestation of Commissioner Suarez, and we would like to unite with him in those interpretations because we have common goals.

MR. SUAREZ. One final request, Madam President. Maybe the use of the word "unfair" can be thrown to the Committee on Style later on, to reflect the common sentiments of the Commission.

MR. VILLEGAS. Madam President, when the time comes, we can discuss Section 1 as we discussed it in the committee, and there is the possibility that the whole sentence will be deleted and substituted with a provision that was introduced by Commissioner de Castro and approved by the body, which states that the State shall give preferential treatment to the use of Filipino labor, domestic materials and locally produced goods. That is a more positive statement which I am sure will not be subject to controversy. But as we said in the beginning of this session, we will take up those possible changes only after we have decided on all the new amendments that are being proposed.

MR. MONSOD. Madam President, may I also say that while we agree with all the interpretations, the issue on the use of the word "unfair" has been fully discussed, and we do not consider it as a matter of style. But we agree with the interpretations which the Commissioner has read.

MR. SUAREZ. Thank you, Madam President and the members of the committee.

MS. AQUINO. Madam President.

THE PRESIDENT. The Commissioner will please proceed with her own proposed amendment.

MS. AQUINO. In view of the arrangement, my amendment, as originally drafted, would now read: "CONGRESS SHALL ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT."

The intention of this proposal is to provide for some kind of a reservation of the essential attributes of primacy of the interest of the Filipinos as the basic postulate in any economic order. Such that in the interpretation of any and all controversies arising from the provision of Section 1, this proposal will serve as some kind of a guiding or fixed star in the constitutional constellation of economic provisions.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Do we understand from the comments of Commissioner Aquino that this reserved power must be always consistent with the Constitution and, therefore, this is not in the same frame as the proposal of Commissioner Suarez where Congress may nullify or disregard what is in the Constitution? Is this an amplification and a promotion of what is consistent and/or already said in the Constitution, Madam President?

MS. AQUINO. The intention of this amendment is not to reserve the power but it would serve as the reservoir of decisional norms in all controversies pertaining to the provisions on economy.

THE PRESIDENT. But does not necessarily contravene any of the provisions that may have been approved as part of the Constitution. Otherwise, we will go back to the argument of Commissioner Laurel that we will be authorizing Congress to overrule.

MS. AQUINO. Not necessarily, Madam President. And there is no such intention to defeat that in any manner.

THE PRESIDENT. Are there any other comments?

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Instead of insisting on my separate amendment which is similar to the amendment being proposed by Commissioner Aquino, I would like to propose an amendment to her amendment. After "DEVELOPMENT," add the words "AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY."

MS. AQUINO. Would that not form part and parcel of the concept of national economic development?

MR. SARMIENTO. The intendment is that all aspects of national economic development will cover utilization and development of the natural resources of the country.

MS. AQUINO. Yes, it is covered.

MR. SARMIENTO. With that explanation, Madam President, I withdraw my amendment.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Just to be consistent also with the earlier interpretation of the proposed amendment, may I propose this amendment: after the word "CONGRESS," add the following: a comma (,) and the phrase "CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION" and another comma (,).

MS. AQUINO. I accept, Madam President.

THE PRESIDENT. Commissioner Aquino has accepted. What does the committee say?

MR. MONSOD. Madam President, as formulated by Commissioner Aquino and amended by Commissioner Davide, this provision says nothing more than what Commissioner Laurel has been saying – that the power is inherent in Congress.

MS. AQUINO. What is inherent need not be necessarily overlooked.

THE PRESIDENT. Does the committee accept or not?

MR. VILLEGAS. The opinion of the committee is that the State shall develop a self-reliant and independent national economy effectively controlled by Filipinos. This is exactly what Commissioner Aquino wants to stress. And we can just read into the record that all the statements made by Commissioners Aquino and Sarmiento are the interpretation of the very first statement of the whole section.

MS. AQUINO. Madam President, I submit this proposal to the decision of the body.

THE PRESIDENT. Will Commissioner Aquino please restate her proposed amendment, as amended.

MS. AQUINO. It would read: "CONGRESS, CONSISTENT WITH THE PROVISIONS OF THIS CONSTITUTION, SHALL ENSURE THE ECONOMIC RIGHTS AND IDEALS OF THE FILIPINOS AS PARAMOUNT IN ALL ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT."

VOTING

THE PRESIDENT. As many as are in favor of this proposed amendment of Commissioner Aquino, as amended by Commissioner Davide, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Three Members raised their hand.)*

The results show 15 votes in favor, 23 against and 3 abstentions; the proposed amendment, as amended, is lost.

SUSPENSION OF SESSION

MR. RAMA. Madam President, I move that we suspend the session until two-thirty this afternoon.

THE PRESIDENT. The session is suspended.

It was 1:15 p.m.

RESUMPTION OF SESSION

At 3:06 p.m., the session was resumed with the Honorable Rustico F. de los Reyes, Jr. presiding.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. I move that we continue the consideration of the Article on National Economy and Patrimony.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

We will now continue the consideration of the Article on National Economy and Patrimony. The chairman and members of the committee are requested to occupy their respective seats.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Garcia be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Garcia is recognized.

MR. GARCIA. Thank you, Mr. Presiding Officer.

I would like to present to the committee two companion proposals, the first of which introduces a new perspective on the issue of a self-reliant and independent national economy. If I may be permitted, I would like to present a very brief explanation for the proposed amendment, which reads: "THE NATIONAL MARKET FOR GOODS AND SERVICES SHALL BE PROTECTED FROM FOREIGN COMPETITION PREJUDICIAL TO THE DYNAMIC DEVELOPMENT OF LOCAL INDUSTRIES IN A PROGRESSIVE ECONOMY.

"THE STATE, THROUGH DEMOCRATIC CONSULTATION, SHALL PLAN THE DEVELOPMENT OF DOMESTIC PRODUCERS IN ALL SECTORS OF THE ECONOMY IN A MANNER THAT WILL ENSURE THEIR VIABILITY AND GROWTH TO SERVICE THE NATIONAL MARKET."

The general context of this amendment is as follows: In terms of population, the Philippines is potentially the fifteenth largest national market in the world. The proposal says, in effect, that the national market must be serviced first and foremost by the development of local industries that will provide for the basic goods and services needed by our people. The State must promote reliance on local production initiatives to meet the consumption needs of the citizens by promoting, for example, the local processing of agricultural products to meet local consumption needs rather than undue reliance on foreign trade susceptible to the vagaries and instabilities of the international market and subject to the domination of the developed countries.

Inasmuch as the mechanisms of private enterprise promote the philosophy of free trade and the value of foreign competition, the State must be given a clear mandate to act as an effective counterweight in promoting Filipino control of economy and in enhancing the progressive growth of local industries that service the domestic market. This is the proposal that I would like to make.

THE PRESIDING OFFICER (Mr. de los Reyes). What is the reaction of the committee to the Garcia proposal?

MR. VILLEGAS. We have studied this proposal since Commissioner Garcia gave it to us sometime ago and the reaction of the members of the committee here is that it is really a rehashing of the protectionist measure that was fully discussed in Section 1 and especially if, as was already intimated this morning, we can come to an agreement on how to improve the style of Section 1. We think this would be unnecessary.

THE PRESIDING OFFICER (Mr. de los Reyes). In other words, the committee does not accept.

MR. MONSOD. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. Even the wording of the second line of this section talks about protection from foreign competition and we feel that this is already covered by Section 1. Furthermore, with due respect to Commissioner Garcia, the same issue was discussed. The Commissioner has already discussed this issue during our discussion of Section 1. I am sure that the records of the Commission will reflect the same arguments that the Commissioner has proposed today. So we feel that this has already been fully discussed and fully resolved. As a matter of fact, without meaning to be repetitive, we feel that this is again an issue that reopens Section 1 and this is in the nature of a reconsideration of Section 1 because this is the same issue that was raised and fully discussed and fully resolved in Section 1. At this point, we do not want to raise again the question of point of order and, therefore, we would like to appeal to Commissioner Garcia to withdraw this proposal in the context of the explanations and the manifestations of Commissioner Suarez and this committee shortly before lunch.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Garcia is recognized.

MR. GARCIA. Mr. Presiding Officer, may I respond?

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MR. GARCIA. We have discussed this at length, it is true, but at the same time, as I mentioned earlier in my introductory remark, it is a new perspective on the same problem. In other words, here, it is a national market we are trying to envision as having high potential for growth, being a very large national market. Therefore, it is important to give the privilege of servicing that market to Filipino entrepreneurs and enterprises that would meet basically the needs in goods and services of the people. In other words, although I recognize that this has been discussed in Section 1, still, I believe that taken from a different perspective, the national market approach could also in a sense help safeguard and preserve the preeminence of Filipino interest in that area.

MR. MONSOD. If I remember correctly, the first time the Commissioner raised this, he called it the patrimony of the country – that the market was part of the patrimony of the country. Therefore, it belongs to Filipinos.

MR. GARCIA. That is right.

MR. MONSOD. The market is composed of buyers and sellers.

MR. GARCIA. Yes.

MR. MONSOD. Who are being protected?

MR. GARCIA. Basically, we are protecting in the long term the entire Filipino industries and the Filipino nation because we are able to build a self-reliant economy here, both for the Filipino industries and the Filipino consumers.

MR. MONSOD. If we take a look at the discussions on this point in the minutes, if we look at Section 1 as a rehash and a representation of what has already been discussed and resolved in Section 1, this committee's position, therefore, is that this is a reconsideration of Section 1 and is out of order.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the Commissioner asking the Chair to rule on the proposal of Commissioner Garcia as an out-of-order proposal?

MR. MONSOD. We are asking the Chair on the basis of this reading of Section 1 and the records of the discussions that that was the point discussed in Section 1 and therefore would constitute a reconsideration of Section 1.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Rodrigo is recognized.

SUSPENSION OF SESSION

MR. RODRIGO. May I ask for a suspension of the session for a few minutes?

THE PRESIDING OFFICER (Mr. de los Reyes). The session is suspended.

It was 3:15 p.m.

RESUMPTION OF SESSION

At 3:17 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes) The Floor Leader is recognized.

MR. RAMA. There is a request that we should go into a vote on the amendment instead of taking up the suggestion on the issue of out of order.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. In the context of that request to vote on the proposed amendment, can we handle this the way we handled the earlier question and just put it to a vote without considering this as a reopening of Section 1?

MR. RAMA. I think the body is ready to do so. I have asked Commissioner Garcia who is willing to submit it to a vote.

MR. GARCIA. All right. If the body wishes, I will read the text of the amendment once again.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Garcia may proceed.

MR. GARCIA. The proposed new section will read: "SECTION ____. THE NATIONAL MARKET FOR GOODS AND SERVICES SHALL BE PROTECTED FROM FOREIGN COMPETITION PREJUDICIAL TO THE DYNAMIC DEVELOPMENT OF LOCAL INDUSTRIES IN A PROGRESSIVE ECONOMY.

"THE STATE, THROUGH DEMOCRATIC CONSULTATION, SHALL PLAN THE DEVELOPMENT OF DOMESTIC PRODUCERS IN ALL SECTORS OF THE ECONOMY IN A MANNER THAT WILL ENSURE THEIR VIABILITY AND GROWTH TO SERVICE THE NATIONAL MARKET."

MR. VILLEGAS. Let me just summarize the stand of the committee.

It is very clear in the records of the discussion on Section 1 that we object to any protection that is given to the market. Protection has to be given to individual Filipino entrepreneurs. Thus, any attempt to protect the market always results in a tremendous prejudice to 55 million consumers today and 70 million consumers in the year 2000. So, very clearly that was the stand. The minority disagree and they make what we consider illogical distinction between producers and consumers being eventually benefitted by protectionism, and that is exactly the bone of contention. Therefore, the statement that the national market is being protected is inherently objectionable. Secondly, all the statements in the other sections which talk about the State promoting the preferential use of domestic materials, of Filipino labor and of locally produced goods, more than enough cover the intent of this specific amendment. That is why we are not accepting this new amendment.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Aquino is recognized.

MS. AQUINO. May I seek clarification on that statement by Commissioner Villegas?

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MS. AQUINO. Is the Commissioner, in effect, saying that regardless of whether Filipino enterprises are capable of taking up the measured capacity, that is, the supply and demand gap, they are not entitled to protection?

MR. VILLEGAS. No. They are entitled to protection if: (1) they are infant enterprises, because it would be unfair to subject them to competition with the Goliaths of international trade; and (2) they are paying very high rates in electricity and if they are being taxed unnecessarily. If certain industries in Korea and Taiwan are being subsidized through very low interest rates . . . I can go on and on.

MS. AQUINO. This is regardless of whether or not it is able to take up the measured capacity, it may be protected.

MR. VILLEGAS. Yes, exactly.

MS. AQUINO. Thank you.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes). Is the body ready to vote now?

As many as are in favor of the Garcia proposal, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 15 votes in favor, 20 against and 2 abstentions; the proposed amendment is lost.

MR. GARCIA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Garcia is recognized.

MR. GARCIA. I would like to read also my companion amendment.

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MR. GARCIA. "SECTION ____. ECONOMIC NATIONALISM SHALL BE FOSTERED IN ALL SCHOOLS AND PROPAGATED BY THE STATE WITH A VIEW TO INCREASING FILIPINO PARTICIPATION IN THE ECONOMIC DEVELOPMENT OF THE COUNTRY AND IN THE PROMOTION AND PATRONAGE OF LOCAL PRODUCTS AND SERVICES."

THE PRESIDING OFFICER (Mr. de los Reyes). Is that being proposed as another section?

MR. GARCIA. Exactly, as an unnumbered section.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. I am in favor of this amendment. However, I feel that it should be included in the Article on Education, Science, Technology, Arts and Culture as submitted by the Committee on Human Resources. I would like to inquire: The moment this proposal will be rejected, can it be reintroduced in the said article? Or, would its rejection now foreclose its presentation in the said article which is the most appropriate article? Like the Article on Human Rights, I really believe that that amendment should be part of the curricula of all schools.

MR. VILLEGAS. Mr. Presiding Officer, since we also have had ample time to study this — Commissioner Garcia gave this to us ahead of time — our reaction is that the first part really coincides with the recommendation of Commissioner Davide that economic nationalism should be incorporated into the definition of nationalism and patriotism that we have been considering in the committee report submitted by the Committee on Human Resources. It is a matter of either expanding that specific section in the proposed articles submitted by the Committee on Human Resources, or actually reading into the records that when we talk about inculcating patriotism and nationalism, we should include economic nationalism, in addition to cultural nationalism and other types of nationalism that may be defined.

The second part is clearly included in the provision that was approved which says that the State shall promote the use of Filipino labor, of domestic raw materials and of locally produced goods, so I think it would be clearly a surplusage if we once again mention that the promotion and patronage of local products and services will be the objective of the State.

That is the stand of the members of the committee here, and my answer to Commissioner Davide's question is: It does not preclude someone during our deliberations on the article submitted by the Committee on Human Resources from bringing up the possibility of either expanding the definition of nationalism or actually reading it into the records.

THE PRESIDING OFFICER (Mr. de los Reyes). Does the Commissioner insist on his proposal?

MR. GARCIA. In the light of that explanation, I would suggest that this be incorporated in the Article on Education. But I would like to make this remark very briefly. This amendment really looks forward or towards the future, because I believe that to build a sound economy that is self-reliant, independent and effectively controlled by Filipinos, we in effect have to do it also and build it in the consciousness and in the minds of the young. Therefore, this in a sense is working towards that realization – to patronize our own products, our own services and to be willing to increase Filipino participation in all areas.

These cannot be done simply by legislation. There has to be also a change in consciousness, a transformation of economic attitudes; and that is why I thought it is important to have it also in the Article on National Economy and Patrimony. But if the committee feels that this could be incorporated better in the Article on Education, I would be willing to present it when the time comes.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the Commissioner withdrawing his proposal?

MR. GARCIA. I am not withdrawing my proposal. I will reserve my proposed amendment when the discussion on the Article on Education is opened once again.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the amendment temporarily withdrawn from this committee?

MR. GARCIA. From this committee, yes.

MR. MONSOD. Thank you.

We also wanted to add, as Commissioner Villegas said, that this committee and this body already approved what is known as the Filipino-First policy which was suggested by Commissioner de Castro. So, that is now in our Constitution.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I rise on a parliamentary inquiry?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Sarmiento is recognized for a point of parliamentary inquiry.

MR. SARMIENTO. Mr. Presiding Officer, this morning I submitted a proposed amendment to the committee but the committee did not act on it and the body did not also vote on this proposed amendment. For clarity and for the information of this body, my amendment states: "THE STATE SHALL PROMOTE THE ECONOMIC INTEREST OF THE FILIPINO PEOPLE TO ENABLE THEM TO GAIN EFFECTIVE AND BENEFICIAL CONTROL OVER ASPECTS OF NATIONAL ECONOMIC DEVELOPMENT THROUGH APPROPRIATE MEASURES THAT WILL SUPPORT ALL SECTORS OF SOCIETY TO PARTICIPATE IN THE OWNERSHIP AND MANAGEMENT OF ECONOMIC ENTERPRISES AND IN THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE COUNTRY."

May I know the reaction of the committee to this proposed amendment?

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. We believe that the proposed amendment is unnecessary not because it has no merit but because it is already in the provisions that have been approved. Section 1 provides that the State is mandated to encourage the broad ownership of private enterprises. Included in this section is the task of the State to promote the ownership by employees of other sectors in the enterprises, because, as Commissioner Garcia has said, the future of our country depends on our ability to own our enterprises and to democratize the ownership of these enterprises. As a matter of fact, the Board of Investments has a rule for those who have incentives to offer their shares to the public but this has not been very successful because the terms have not been attractive. So by our records, this should also remind Congress to have attractive terms so that the workers and employees will have the incentive to buy shares.

I also think that in the section we have approved which states that Congress shall create an agency which shall promote the viability and growth of cooperatives as instruments for social justice and economic development, we are also asking Congress to give incentives to groups of people, employees or whatever to establish cooperatives which can own economic enterprises because that is again part of the democratization of the wealth objective of the country. So, we believe that the Commissioner's proposal is already incorporated in the present sections of the Article on National Economy and Patrimony.

THE PRESIDING OFFICER (Mr. de los Reyes). Is Commissioner Sarmiento satisfied with the answer to his inquiry?

MR. SARMIENTO. I have only one question, Mr. Presiding Officer. Did I hear Commissioner Monsod right when he said that the employees shall share in the ownership of enterprises?

MR. MONSOD. Yes, the enterprises should be encouraged and there should be incentives to enable the employees to own shares. It need not come alone from the owners of the enterprises. The government itself can give subsidized loans for the employees who want to buy shares. It can also give incentives to the employees to form investment clubs. This practice is usually done in the United States to enable the employees to have the incentives to own shares from their companies. These employees are the ones who know whether the share is attractive or not because they know how the company is doing. Hence, when they want to buy their shares, then the incentives should be given to them to enable them to do so.

MR. SARMIENTO. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Quesada be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada is recognized.

MS. QUESADA. Mr. Presiding Officer, I would like to propose an amendment to define the role and scope of participation of foreign investment in the national economy. The idea is not to repeat what has already been discussed or covered in Section 1, but to expand or to clarify how some of the principles enunciated in Section 1 could be concretized.

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MS. QUESADA. The proposal is: "FOREIGN INVESTMENT SHALL PLAY A SECONDARY ROLE IN THE NATIONAL ECONOMY. IN ALL CASES FOREIGN INVESTMENTS SHALL BE SUBJECT TO DIVESTMENT BASED UPON TERMS AND CONDITIONS THAT CONGRESS SHALL FORMULATE GIVING DUE REGARD TO FAIR AND EQUITABLE COMPENSATION AND TO PRIOR RIGHTS OF EMPLOYEES OF THE ECONOMIC ENTERPRISE TO ACQUIRE OWNERSHIP."

There are actually two elements in this proposal. One is to have a concrete guide for Congress saying that foreign investment shall play a secondary role. The second concept here is divestment which Commissioner Monsod has somehow expressed but not very concretely when he said that employees will be given the right to own some shares in the enterprise. May I just explain the position?

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MS. QUESADA. This amendment is proposed to explicitly state what form of foreign investment that the country would like to attract. In precise terms, this particular amendment addresses the extent of participation of foreign investment, maintaining always the unequivocal condition of contributing to long-term growth of the economy. Participation of foreign investment may be allowed under conditions that will favor a real economic contribution in areas where there is proven scarcity of domestic capital or where specific foreign technology is needed for the development and improvement of production after this condition has been exhaustively evaluated, except in economic activities which are critical to the stability of the economy and to national security.

The following guidelines are contained in the UP School of Economics paper towards recovery and sustainable growth which has been authored by Minister Monsod, et al:

> (1) A multinational firm should be required to export a stipulated proportion of its output, 70 percent of which would be an indicative number.
>
> (2) A multinational firm will not be allowed to avail of domestic capital, except for working capital purposes.
>
> (3) The rule on foreign ownership which will be eventually adopted should be followed strictly. No loopholes and exceptions, such as pioneer industries, should be allowed.

There is also the concept here of democratization which has been expressed by Commissioner Monsod and that we are also focusing on how the common good can be best served; that is, not to concentrate on a few established economic interest, by ensuring that there will be this divestment after a period of time. I suppose that this is the divestment program covered in the Board of Investments rules, but I was thinking that perhaps there is a need to express in concrete terms this guideline which would be in keeping with some of the approved additional provisions; namely, the creation of the agency which shall promote the viability and growth of cooperatives.

We have also approved the provision mandating the State to promote a trade policy that serves the general welfare and utilizes all forms of arrangement of exchange on the bases of equality and reciprocity. We have also a provision on foreign loans. We have also a provision that would promote and sustain the development of a national talent pool of Filipino entrepreneurs and also on the preferential use of Filipino labor. I suppose this proposal would make explicit our guidelines on the kind of foreign investment that would contribute to the national economy and translate the basic principle contained in Section 1.

THE PRESIDING OFFICER (Mr. de los Reyes). What is the reaction of the committee?

Is Commissioner Quesada through?

MS. QUESADA. Yes.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, may I ask some clarificatory questions?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you.

Will the lady Commissioner please yield to some questions?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada may yield, if she so desires.

MS. QUESADA. Willingly.

MR. NOLLEDO. What does the Commissioner specifically mean by saying that foreign investment shall play a secondary role in the national economy? Am I right if I say that foreign investment will be welcome only in areas which are not adequately exploited by Filipinos?

MS. QUESADA. That is the implication.

MR. NOLLEDO. And that, this should give way to the rule that Filipinos should be given first the chance to invest in such areas of investment before foreigners will be given the opportunity to do so?

MS. QUESADA. That is also the understanding of this particular principle.

MR. NOLLEDO. When the Commissioner talks of divestment, does she contemplate a particular period during which a foreign investor may operate in the Philippines?

MS. QUESADA. The rules of the Board of Investments provide a period of ten years before a divestment program could begin and this is actually in keeping with our belief that by that time, these foreign investors would already have contributed and they would have all profited from their investments in the Philippines. And by then, the Filipinos would already have developed the technology and the managerial competence by which they could also become involved in the management of an enterprise.

So, this is actually our idea of these foreign investments contributing to a self-reliant economy and that we will not forever be kept dependent on them. I think that is what all of us believe in; that we cannot remain dependent, but that we should learn how to stand on our own. If we can attract foreign investors who will have that kind of interest in the Philippines, knowing that we are still a developing country, I am sure that there will be many such countries who would be willing to help the Philippines, especially under the new dispensation of President Aquino.

So, we will be more selective. I understand that there are other developed countries who are just willing to have that kind of intention in our country.

MR. NOLLEDO. Is the lady Commissioner aware of a provision in the investment law that investors shall enjoy freedom from expropriation? The provision states and I read:

> There shall be no expropriation by the government of the property represented by investments or the property of enterprises except for public use, or in the interest of national welfare and defense and upon payment of just compensation.

Would the Commissioner agree with me that if her proposed amendment is approved by the body, this provision of the investment law will be superseded?

MS. QUESADA. I suppose that once it is approved it will supersede all existing laws that would be in contradiction with what is provided in the fundamental law.

MR. NOLLEDO. In that case, the moment equitable compensation is paid, would the Commissioner agree with me that that compensation can be remitted by the recipient, perhaps, under certain conditions to his estate, to the estate of the investor?

MS. QUESADA. I suppose so.

MR. NOLLEDO. Is it possible then that this just compensation be made subject to the condition that it shall also be invested in the Philippines?

MS. QUESADA. The Congress should be able to formulate the policy guidelines that would govern this particular arrangement.

MR. NOLLEDO. Therefore, the terms and conditions that Congress may fix on divestment shall be dependent upon the Members of the Congress themselves.

MS. QUESADA. Yes.

MR. NOLLEDO. I think the amendment is reasonable enough. I am going to support it.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Aquino is recognized.

MS. AQUINO. I fully concur with the spirit and intent of the proposed amendment, but I have serious doubt about the first line. The intended potency in terms of restricting foreign investments may be effectively watered down by the first sentence being susceptible to misinterpretation. It could even set the pace for unmitigated influx of foreign capital. I have no quarrel with foreign capital. In fact, I am willing to concede that foreign capital is needed for industrialization, but what is desirable is not direct foreign investment but loans in the form of capital goods that would militate against the possibility of foreign investment directly flooding the private Filipino entrepreneurs.

On the second note, I could distinctly remember that in the previous discussions, Commissioner Ople had the savvy and the candor to withdraw an approved amendment, if only to yield to the questions raised by some of the Commissioners that the constitutionalization of the phrase "foreign investment" may be fraught with danger. The way "foreign investment" is being used now in the first sentence is exactly the kind of danger that I have been very conscious and wary about.

MS. QUESADA. Does the Commissioner have any proposed amendment to this formulation?

SUSPENSION OF SESSION

MS. AQUINO. Mr. Presiding Officer, may I move for a suspension of the session?

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The session is suspended.

It was 3:43 p.m.

RESUMPTION OF SESSION

At 3:50 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada is recognized.

MS. QUESADA. Mr. Presiding Officer and distinguished members of the committee, we have arrived at a compromise; thanks to Commissioners Aquino, Azcuna and Sarmiento. This formulation has been inspired by the Charter of Economic Rights and Duties of States which the Philippines cosponsored with 96 other nations and the United Nations in 1974. It states: "THE STATE SHALL REGULATE AND EXERCISE AUTHORITY OVER FOREIGN INVESTMENTS WITHIN ITS NATIONAL JURISDICTION AND IN ACCORDANCE WITH ITS NATIONAL GOALS AND PRIORITIES." This particular provision would then cover such acts as divestments. This would actually now remove the succeeding formulation which is on the divestments based upon the terms and the conditions that Congress shall formulate.

THE PRESIDING OFFICER (Mr. de los Reyes). Will the Commissioner please read again the exact proposal.

MS. QUESADA. The exact proposal reads: "THE STATE SHALL REGULATE AND EXERCISE AUTHORITY OVER FOREIGN INVESTMENTS WITHIN ITS NATIONAL JURISDICTION AND IN ACCORDANCE WITH ITS NATIONAL GOALS AND PRIORITIES."

THE PRESIDING OFFICER (Mr. de los Reyes). What is the reaction of the committee?

MR. MONSOD. The committee accepts.

MS. QUESADA. Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes). The committee has accepted the amendment.

Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

MR. MONSOD. Thank you.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Aquino is recognized.

MS. AQUINO. In order to clarify for the record the modalities of the State regulations, may we request Commissioner Quesada to answer a few questions.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada may yield, if she so desires.

MS. QUESADA. Willingly.

MS. AQUINO. For the record, may we ask the Commissioner to please state the modalities within which the State could assert State regulation and restriction of foreign investments?

MS. QUESADA. The modality for such regulation would consist of the divestments scheme, based upon terms and conditions that Congress shall formulate, giving due regard to fair and equitable compensation and to prior rights of employees of the economic enterprise to acquire ownership.

MS. AQUINO. Thank you.

MR. MONSOD. We do not agree with that interpretation because that is not clear in the intent of the section. The provision is now in the jurisdiction of the committee and that is not the interpretation of the committee.

MS. QUESADA. I submit.

THE PRESIDING OFFICER (Mr. de los Reyes). What is the interpretation of the committee?

MR. MONSOD. We leave it entirely to Congress in order to determine the rules and regulations for the same reason that there now exist investment laws in the country, but this section does not necessarily mandate divestment.

MS. AQUINO. But neither does it preclude a scheme of divestment.

MR. MONSOD. Right now, the investment laws have such a scheme, but not the focus of this section.

MS. AQUINO. When the Commissioner said that he disagreed with the interpretation, it was as if he were rejecting it as a possible modality.

MR. MONSOD. We disagreed with it because it was presented as the focus of the section.

MS. AQUINO. As the intent, but it could be interpreted as a mode which can possibly provide for a statute.

MR. MONSOD. That is within the realm of possibility.

MS. AQUINO. Yes.

MR. VILLEGAS. Mr. Presiding Officer, let me just point out that Section 9 is very clear that if Congress feels that certain industries of investment should be 100 percent Filipino, it is perfectly free to actually legislate for a 100 percent Filipino ownership and, therefore, divestment is automatically included in that kind of legislation.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. Taking into account the manifestation of the chairman of the committee and the modalities expressed by. Commissioners Aquino and Quesada, would it mean, therefore, that divestment as proposed in the amendment of Commissioner Quesada would well be covered by Section 9? In other words, when Congress exercises the authority as provided in Section 9, is divestment always allowed?

MR. VILLEGAS. Obviously.

MR. DAVIDE. Thank you.

MR. MONSOD. That is in the investment laws and does not need to be manifested here.

MR. SARMIENTO. Mr. Presiding Officer, just a few questions.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Sarmiento is recognized.

MR. SARMIENTO. Commissioner Quesada said that this amendment was inspired by the Charter of Economic Rights and Duties of States. Am I correct?

MS. QUESADA. Yes.

MR. SARMIENTO. We all know that the Philippines cosponsored with 96 other nations in the United Nations in 1974 the signing of this Charter of Economic Rights and Duties of States. Am I correct?

MS. QUESADA. I have said so.

MR. SARMIENTO. All right. This Charter of Economic Rights and Duties of States was the product of a study conducted by a 20-man committee called the group of eminent persons to study the role of multinational corporations and their impact on the process of development and also their implications for international relations. Am I correct?

MS. QUESADA. Yes.

MR. SARMIENTO. Now, this 20-man committee made 50 recommendations in connection with the regulation and exercise of authority over foreign investments. May I mention these two recommendations: (1) The group – I am referring to the 20-man committee – recommended that each host country should decide, in the light of its own needs and aspirations, those areas of economic activities in which the State will accept foreign investment and those which it wants to reserve for indigenous companies, and specified clearly the conditions upon which such investments should be allowed in these sectors.

Does this amendment cover or contemplate this recommendation made by this 20-man committee?

MS. QUESADA. Yes.

MR. SARMIENTO. This committee also made this recommendation: (2) It suggests that the host country indicate the areas where foreign investment would be allowed; that it should also lay down as precisely as possible the conditions under which multinational corporations should operate and that such host country consider creating provisions for the review of such conditions at the request of either side, after suitable intervals. Now, does this amendment cover also this recommendation by this United Nations group?

MS. QUESADA. Yes.

MR. SARMIENTO. Thank you, Mr. Presiding Officer.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. May we say that the opinions read by Commissioner Sarmiento from the source he was reading represent the opinion of that body and perhaps his opinion, but not necessarily the opinion of the committee. That is up to Congress; that is precisely why we are leaving it to Congress. It is not mandatory.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Padilla is recognized.

MR. PADILLA. With regard to Section 9 where Congress may require a higher percentage, I am of the opinion that whatever Congress legislates will have prospective effect. It cannot have a retroactive effect, otherwise it may impair the obligations of contracts or even vested rights. Hence, I do not agree with the opinion that the foreign investor may be compelled to be divested of what it has enjoyed under the Constitution and the laws then existing, much less can we compel a foreign investor, like any private entrepreneur, from being divested of its participation or share in favor of any particular sector or particular persons.

I believe in the basic rule that laws are prospective, not retroactive. Every law should be prospective in its application. And in expressing my legal opinions, I hope I am not wrong, a contrary interpretation might destabilize many existing business enterprises, and definitely will be a disincentive to foreign investment.

THE PRESIDING OFFICER (Mr. de los Reyes). The opinion of Commissioner Padilla is noted.

MR. VILLEGAS. Mr. Presiding Officer, I fully concur with the interpretation of Commissioner Padilla. The committee concurs in the sense that the law cannot have a retroactive effect, and the divestment scheme precisely is one that will apply to all prospective investors.

So, here, we are talking about how a divestment scheme can be incorporated into a law, and this falls within the purview of Section 9, as long as the intention is prospective rather than retroactive.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. There is a previous question; we have to take a vote on the amendment of Commissioner Quesada.

THE PRESIDING OFFICER (Mr. de los Reyes). There was no objection to the amendment of Commissioner Quesada, and it was approved without objection.

MR. RAMA. Our procedure is that we would still have to take a vote, even if there is no objection.

THE PRESIDING OFFICER (Mr. de los Reyes). Even if it was accepted by the committee?

MR. RAMA. Yes, the body will still have to vote on that particular amendment.

THE PRESIDING OFFICER (Mr. de los Reyes). The usual procedure is that when there is no objection and the amendment is already accepted by the committee, there is no more need for a vote.

MR. RAMA. If that is the interpretation and is accepted by the body, then I would ask that we close the period of amendments.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection that we close the period of amendments?

MR. RAMA. There is still one speaker to present an amendment. May I ask that Commissioner Gascon be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Does Commissioner Gascon have an additional amendment?

MR. GASCON. Yes, I have.

THE PRESIDING OFFICER (Mr. de los Reyes). The Commissioner may proceed.

MR. GASCON. This proposed amendment which I presented to the committee in a meeting last Friday was not accepted as additional amendments. However, in the course of some discussions, they said I would be allowed to present these amendments on the floor for enrichment of the records.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Gascon may proceed.

MR. GASCON. The first amendment is an additional section which would read: "THE CONGRESS MAY PROVIDE FOR THE FORMATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS

ESTABLISHED WITH THE END IN VIEW OF TRANSFERRING OWNERSHIP TO THE WORKERS THEREIN." The rationale is to concretize the equitable distribution of wealth. It is not enough that there is public ownership of certain corporations, but rather, the propertyless and the less privileged sector should be given direct ownership of the means of production and the products which they labor over.

So, let us say hopefully that in the future, the government's capital could be the initiator for the encouragement of creation of corporations which in the long run will be given to the workers themselves through their hard work and through their process of buying the capital which was initiated or initially invested by the government itself.

The State sets up a corporation in an area of investment, preferably or probably one that deals with mass consumption. The State however does not crowd out any existing private corporations which may be presently operating in such a field. Hence, the government-controlled corporations shall be a small- or medium-scale industry, since the market for mass consumption goods has not been extensively used. Of course, there will still be room for other industries which the government can enter into.

Moreover, the government shall act as an administrator to a corporation until such time that the enterprise becomes viable and operational. Capital stock shall then be transferred under the names of the workers of that corporation. The workers in effect would have earned their shares through their labor and they can determine the policies regarding operation of the corporation. Then when a worker decides to leave the corporation, his stocks would go back to the State. The intent is basically that in Section 1 we have the goal of equitable distribution of wealth and this proposed provision would allow Congress to initiate such steps toward distributing ownership and wealth.

MR. NOLLEDO. Mr. Presiding Officer, may I ask the proponent some questions?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Gascon will yield, if he so desires.

MR. GASCON. Yes, gladly.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

Will the Commissioner's proposed amendment apply to existing government-owned or controlled corporations? I ask because the Commissioner's amendment states: "THE CONGRESS MAY PROVIDE FOR THE FORMATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS," indicating that if it were approved, his amendment will have only prospective effect. How about the existing government-owned or controlled corporations?

MR. GASCON. The original intent of this proposed section is prospective in nature. However, I feel that if there are certain present government-owned or controlled corporations which are of public ownership and there are some attempts of expanding ownership to a greater number, it is also a possibility which Congress could consider but my intent is primarily prospective.

MR. NOLLEDO. The Commissioner said that when the stocks are transferred to the workers but the workers do not want to stay in the corporation as investors, these workers would transfer the stocks to the government.

MR. GASCON. Exactly, they cannot sell their stocks to someone else; the stocks go back to the State and will accrue to new workers who will come in.

MR. NOLLEDO. Would it not be better that these transferers transfer their stocks to existing stockholders or to their coworkers in the corporation?

MR. GASCON. So long as they are workers of that corporation.

MR. NOLLEDO. Am I right if I say that the purpose of the Commissioner's amendment is for the government to take the initiative because the government has the resources at its command and that it can ultimately transfer the ownership to the workers who do not have capital of their own?

MR. GASCON. Yes, exactly, because we realize that in a country such as ours where there are so many who are poor, oftentimes it becomes difficult for them to become initiators simply because they do not have the necessary capabilities or capital. However, the government can become active participant in encouraging more people to become active producers in our economy by initiating with the end in view of transferring ownership to them in the long run, of course, based on compensation back to the government.

MR. NOLLEDO. Would the Commissioner agree with me if I say that this provision should apply only to areas of investment that are not yet presently adequately exploited by other private corporations?

MR. GASCON. Yes. I stated that in the concept, this provision should not crowd out any existing private corporations which may be presently operating in a certain field. That is why I perceive it to be concentrated directly on small- or medium-scale industries and in areas of investment, primarily dealing with mass consumption, like food, clothing, et cetera.

MR. NOLLEDO. Thank you.

MR. GASCON. Thank you.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. May I be clarified on certain points?

MR. GASCON. Certainly.

MR. DAVIDE. How would the Commissioner either reconcile or harmonize this amendment with the proposed Section 11, whose second sentence reads as follows: "Government-owned or controlled corporations may be created or established BY SPECIAL CHARTER in the interest of the common good AND SUBJECT TO THE TEST OF ECONOMIC VIABILITY"? How would the Commissioner reconcile an apparent inconsistency? Section 11 provides the guidelines before a government-owned or controlled corporation may be created by a special charter.

MR. GASCON. That is correct.

MR. DAVIDE. Then, how would the Commissioner harmonize it in the sense that according to Section 11, before any such corporation could be organized, we have the following tests or preconditions: interest of the common good and subject to the test of economic viability.

MR. GASCON. I do not believe that there is inconsistency here. In fact, it would even supplement Section 11. So, when the government initiates the creation of government-owned corporations, it must have also considered these preconditions: the interest of the common good and economic viability. However, my concern is not only these two, but perhaps we could also further consider that in the long run, the provision shall transfer ownership to the workers therein.

MR. DAVIDE. Let us put it this way. Under the Commissioner's proposal, the following requirements would still be needed or complied with: interest of the common good and subject to the test of economic viability.

MR. GASCON. Yes. I think it is more supplemental than contradictory.

MR. DAVIDE. Another point is: Would not the phrase "common good" include the possibility of a transfer of ownership to the workers?

MR. GASCON. Not necessarily.

MR. DAVIDE. But can it include?

MR. GASCON. Yes, it could.

MR. DAVIDE. It could include. In other words, the Commissioner's idea is already included in Section 11, more particularly in the second sentence.

MR. GASCON. It is not clear. When we say "in the interest of the common good," the State could manage such a corporation, but ownership of such a corporation may be limited to the State alone. The intent is that it will transfer ownership to the workers therein. So, there is a difference. When we speak of the phrase "common good," it could handle certain public utilities for the common good. But it is another thing to say that it will transfer ownership to the workers therein as mentioned.

MR. DAVIDE. Did the Commissioner mention public utilities?

MR. GASCON. As a hypothetical situation.

MR. DAVIDE. We have specific provisions on "public utilities." We have Section 15 which states: "The State shall encourage equity participation in public utilities by the general public." In that regard, would the Commissioner's proposal be either included in Section 9 or in Section 15?

MR. GASCON. To some degree yes, but again there is a difference between "public ownership" per se which means the general public could be stockholders. But the other thing is the owners themselves. I think this is also related to the provision on "Cooperatives" which we have also accepted.

MR. DAVIDE. In the Commissioner's proposal, there is the phrase "THE END IN VIEW OF TRANSFERRING OWNERSHIP TO THE WORKERS THEREIN." In the event that the ownership is transferred to the workers therein, would a corporation cease to be a government-owned or controlled corporation?

MR. GASCON. I do not believe so.

MR. DAVIDE. How could it be when the government no longer owns or controls anything?

MR. GASCON. Whenever there is movement of workers outside the corporation the stocks would accrue back to the State.

MR. DAVIDE. So the State still has some form of administration. Is it a movement of the workers out of the corporation or into the corporation to become owners of the said corporation?

MR. GASCON. To become owners, they must move into the corporation.

MR. DAVIDE. So, if the workers would now become owners of the corporation to the full extent, would that corporation cease to be a government-owned or controlled corporation?

MR. GASCON. As I said, there would still be some administrative character of the State.

MR. DAVIDE. If a corporation is totally owned by the workers, what authority will the government have to administer it? Since an eventual divestment by the government to own its interest in the corporation in favor of the workers would necessarily result in making the corporation a private corporation, would not the Commissioner suggest that the government must take steps to encourage the public to organize corporations to be owned by the workers?

MR. GASCON. Yes, in the long run.

MR. DAVIDE. Thank you very much.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. Do I understand from Commissioner Gascon that he is not proposing this amendment and that he wants to make of record certain ideas?

MR. GASCON. Ideally, I would like to propose it, but we had a meeting and the committee did not accept it.

MR. MONSOD. May we say our reasons why we discouraged the presentation of this amendment?

The idea of the government organizing small- and medium-scale enterprises with the end in view of transferring these to workers is fraught with dangers and operational difficulties. In the first place, before it makes an impact – we are talking about small- and medium-sized industries – this has to be a massive undertaking of the government. Our experience in the government – and this is not limited in the Philippines – is that the government does not unfortunately have good entrepreneurial abilities, even in big enterprises. What more in a multiplicity of hundreds of small- and medium-scale enterprises? I think there seems to be a presumption here that the government is an efficient entrepreneur, but it may be the opposite. In fact, the record shows it is the opposite. So, we will be inflicting upon the poor workers the inefficiency of the government.

Suppose the workers do not want to buy their shares. The government is stuck with these enterprises. Is the Commissioner saying that the workers must agree from the beginning that they must buy the shares of this corporation? I know that the sentiment of the honorable Commissioner is good, because he wants incentives and government support for workers to own enterprises. But this may be the wrong way to do it. As a matter of fact, with the divestment of the government from owning these enterprises, the government would like to offer the employees the shares of stock, but the employees do not want to buy the shares. That is why there are difficulties in the privatization movement of the government and the Commissioner's proposal would aggravate the situation because it mandates the government to set up new enterprises for divestment to workers.

If indeed our economy is based on private initiative and these projects are economically viable, perhaps the route is for the establishment or encouragement of cooperatives. But the initiative to establish or encourage cooperatives should come from the entrepreneurs and not for the government to expend its resources on entrepreneurial functions which could not be handled by the government itself.

MR. GASCON. I have also expressed my point, but I think the government has a role to play in the encouragement of the people's ownership in the long run. That is all.

THE PRESIDING OFFICER (Mr. de los Reyes). Is Commissioner Gascon throwing his amendment to the floor?

MR. GASCON. Yes.

THE PRESIDING OFFICER (Mr. de los Reyes). We shall vote on Commissioner Gascon's amendment. Will the Commissioner please read his amendment again?

MR. GASCON. My proposed amendment reads: "THE CONGRESS MAY PROVIDE FOR THE FORMATION OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ESTABLISHED WITH THE END IN VIEW OF TRANSFERRING OWNERSHIP TO THE WORKERS THEREIN."

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes). The body is now ready to vote.

As many as are in favor of the Gascon amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Three Members raised their hand.)*

The results show 12 votes in favor, 20 against and 3 abstentions; the amendment is lost.

MR. GASCON. Thank you, Mr. Presiding Officer.

I have one last proposed amendment.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Gascon may proceed.

MR. GASCON. This is a new section which states: "CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS." Granting that there is indeed a scarcity of domestic capital, we do not force Filipino entrepreneurs to go 100 percent in the ownership of business entities. This is provided in the 60-40 arrangement in favor of Filipinos. However, to encourage nationalization of industries in agricultural, industrial and service sector so that we may achieve our goal of self-sufficiency, we must perhaps provide some incentives for our citizens to allocate their savings towards more productive endeavors that will be beneficial to the whole society.

So the whole context of this section which I am proposing now is generally for Congress to enact measures to encourage the more daring entrepreneurs who would like to form and operate enterprises which are wholly owned without prejudice to existing equity requirements which are in Section 9.

MR. ROMULO. Mr. Presiding Officer.

MR. NOLLEDO. May I ask some clarificatory questions?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Nolledo is recognized first before Commissioner Romulo.

MR. NOLLEDO. With the kindest indulgence of Commissioner Romulo.

MR. ROMULO. - Yes.

MR. NOLLEDO. Thank you.

Since this provision is worthy of support, I would like to know the meaning of the word "measures." Am I right if I give two examples? One example is extending loans to Filipino applicants, and the second example is granting incentives, like tax exemptions, during the first five years of operation. Am I right?

MR. GASCON. That is correct.

MR. NOLLEDO. Thank you very much.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Romulo is recognized.

MR. ROMULO. Mr. Presiding Officer, I have just two comments. I do not know if the Commissioner is talking about the same thing,. but when Senator Diokno sponsored and formulated RA 5186, which is the Investment Law, that is exactly what he had in mind—that in order to encourage principally domestic investors, he laid out a lot of incentives. With these incentives arose the primary classifications of pioneer industry, nonpioneer, preferred and nonpreferred. So I believe that if it is really a measure by Congress, it exists now and perhaps what ought to be done is to refine that when we have a new Congress.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. We believe that the proposal is also covered under various sections, including Section 9 which states that the Congress has the right to reserve ownership to Filipinos and it could even increase. Also, there is enough flexibility here because we are talking only in his proposal of "WHOLLY OWNED." The Commissioner should know that the Congress is for 75 percent, 66 2/3 percent, 60 percent and it is really a broader investment law because when we only give incentive to wholly owned, we are, in effect, discriminating against a 95 percent or even a 98 percent Filipino ownership. What I am saying is an absolutist approach to this which may be contrary to the interest of the Filipino entrepreneur.

The Filipino entrepreneur who may not have enough money or people to have a wholly owned enterprise is perhaps also entitled to incentives. We also have sections where we talk about preferential treatment of grants, privileges and concessions. There are also provisions which suggest that Congress should also give incentives for that and on the Filipino-First policy. So, we believe that there is enough flexibility and leeway in the present articles to accommodate the idea that the Commissioner is presenting here.

MR. GASCON. First, I would like to clarify something. When I propose this amendment, I do not intend to discourage other equity ratios. What I would like to stress is the government encouragement of wholly owned corporations without prejudice to support any incentives to others.

MR. MONSOD. Yes, but what is mandated here is the incentive to the hundred percent. Hence, when we favor one, we disfavor another. That is in the scheme of things. If the Commissioner is saying that these certain areas of investment must be 100 percent Filipino-owned, then he is discriminating against those with 98 percent or less Filipino ownership.

MR. NOLLEDO. May I propound some questions, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you.

I do not believe so, Mr. Presiding Officer, because here comes a group of all-Filipinos applying for loans. Between that segment or group of Filipinos, there is a group of all-Filipinos applying for a loan and there is a segment where 90 percent are Filipinos and 10 percent are aliens. The government gives preference to the 100 percent Filipino. I find no inconsistency in that example.

MR. MONSOD. But that is an extremist position. We are saying that in the allocation of debt, it is not only the ownership that counts. Some were saying that we do not need a constitutional provision that specifically favors only wholly owned corporation because there are many Filipinos who deserve it but it may not be wholly owned for reasons which may be beyond their control.

MR. NOLLEDO. That is going towards Filipinization of certain basic industries, and if the State says that an enterprise is wholly owned by Filipinos, then we will give them the incentives including the lending preference. I find no inconsistency here.

MR. VILLEGAS. As Commissioner Monsod has already said, that situation is already included in Section 9 – the 100 percent Filipino-owned can be promoted by Congress. So, we think this amendment is a surplusage.

MR. NOLLEDO. Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes). Is Commissioner Gascon still insisting on his amendment?

MR. GASCON. Despite some comments that this amendment is a surplusage and it is already covered by Section 9, I suggest that we rather put it to a vote. Besides, what is one section among friends?

THE PRESIDING OFFICER (Mr. de los Reyes). Will Commissioner Gascon please read his proposal again?

MR. GASCON. My amendment reads: "CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS."

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes). As many as are in favor of the second Gascon amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 16 votes in favor and 16 against.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bengzon is recognized.

MR. BENGZON. Commissioner Regalado is resting, and he told me that he would participate because he could hear everything. May we send someone to get his vote?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. Would that be allowed under the Rules?

THE PRESIDING OFFICER (Mr. de los Reyes). We do not have to go into that extent. Maybe we will just break the tie.

MR. BENGZON. We will send someone to find out if he can come in and participate in the voting of the Gascon amendment.

MR. DAVIDE. But the results of the voting had already been announced.

MR. NOLLEDO. Mr. Presiding Officer, I think there is some unfairness because it is at the time of the voting that the Chair determines whether there is a tie or none. That is a basic principle in parliamentary practice.

THE PRESIDING OFFICER (Mr. de los Reyes). Section 41 states: "The President or the Presiding Officer shall not be obliged to vote except to break a tie."

Will the Commissioner please read his amendment again?

MR. GASCON. "CONGRESS SHALL ENACT MEASURES THAT WILL ENCOURAGE THE FORMATION AND OPERATION OF ENTERPRISES WHOSE CAPITAL ARE WHOLLY OWNED BY FILIPINOS."

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Maambong is recognized.

MR. MAAMBONG. May I just volunteer the information that although it is not in our Rules, there are precedents to the effect that if there is a tie, the Presiding Officer can ask for another voting; that is, if the Presiding Officer does not want to break the tie.

THE PRESIDING OFFICER (Mr. de los Reyes). I might as well do that.

MR. VILLEGAS. Commissioner Regalado is coming.

MR. GUINGONA. Mr. Presiding Officer, I wonder if the precedent that Commissioner Maambong is referring to is patterned from the Batasan, because in the absence of specific rules, I think the rule that the Commissioner has read should be followed.

MR. MAAMBONG. The precedent I am talking about is not in the Rules of the Batasan, but I would like to call the attention of the Commission that in the Rules of the Constitutional Commission, we use, in suppletory effect, the provisions not only of the Rules of the Batasang Pambansa but also the Jefferson's Manual. These precedents are found in the Jefferson's Manual and in the Rulings of the Chair in those occasions.

THE PRESIDING OFFICER (Mr. de los Reyes). Section 60 of the Rules provides:

> The Rules of the Batasang Pambansa, the Rules of the House of Representatives and the Senate of the Philippines and the Jefferson's Manual may be invoked to govern in a supplemental manner insofar as they are not incompatible with the provisions of these Rules.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

Commissioner Regalado has been attending our sessions for the whole morning. Unfortunately, he was resting when the voting took place. He is now present. Can we not give him an opportunity to give his vote on this matter?

I move that he be given an opportunity to vote on this important matter.

REV. RIGOS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Rigos is recognized.

REV. RIGOS. Mr. Presiding Officer, the voting is over, and the Rules state that in case of a tie, the Presiding Officer may vote. The Presiding Officer will solve the problem if he were to cast his vote now.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Just a moment. Section 106 of the Rules of the Batasan which is applicable in a suppletory character states:

> In case of a tie, the Speaker having voted, the motion is lost.
>
> In case of a tie, the Speaker not having voted, the motion is lost unless he opts to vote affirmatively.
>
> A tie vote on an appeal from the ruling of the Chair sustains the decision of the Chair.

MR. GUINGONA. Mr. Presiding Officer, I do not have a copy of the Rules. But from what was read, it would seem to me that the rules mentioned are suppletory. What is even worse is that Commissioner Maambong is referring not to the actual Rules but to the Rulings of the Speaker of the Batasang Pambansa. Perhaps, we could resolve this problem if we call for a nominal voting.

THE PRESIDING OFFICER (Mr. de los Reyes). Order please.

MR. GUINGONA. Perhaps we can resolve this problem if the Presiding Officer prefers not to vote to break the tie. We can hold a nominal voting since Commissioner Regalado is already here.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the Commissioner asking for a nominal voting?

MR. GUINGONA. Yes, I am asking for a nominal voting.

THE PRESIDING OFFICER (Mr. de los Reyes). All right, we shall have a nominal voting.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. Mr. Presiding Officer, perhaps in the interest of the unity of the body, we can resolve the problem by the committee accepting the amendment. *(Applause)*

MR. GASCON. Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes). The committee has accepted the amendment.

Is there any objection?

MR. JAMIR. I object to the committee's acceptance of the amendment.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes). Then we shall put this to a vote.

As many as are in favor of the second Gascon amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand.

MR. DE CASTRO. I abstain, Mr. Presiding Officer, because this is getting to be a diplomatic Constitutional Commission.

THE PRESIDING OFFICER (Mr. de los Reyes). The results show 31 votes in favor, 2 against and 1 abstention; the amendment is approved.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. I move that we close the period of amendments.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection?

Commissioner Maambong is recognized.

MR. MAAMBONG. Just a point of clarification from the committee.

In the copy that we received, I noticed that we have already approved additional provisions. I am sorry, Mr. Presiding Officer, maybe I was not very attentive when the section on page 7 was considered and which states:

> The State shall protect the nation's marine wealth in its territorial waters, territorial sea and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

THE PRESIDING OFFICER (Mr. de los Reyes). That is the Ople amendment.

MR. MAAMBONG. Yes, that is the Ople amendment, I understand. However, I have here a copy of Resolution No. 20 which gave consent to the acceptance by the Honorable Jose B. Laurel, Jr. of the First Class Order of the Rising Sun from the government of Japan by the Batasang Pambansa. But in one of the whereases, it mentions that Honorable Laurel represented the Philippine panel as chairman and negotiated the Treaty of Amity, Commerce and Navigation between the Philippines and Japan in 1960. I wonder if the phrase "economic zone" would affect in any way this treaty mentioned in Resolution No. 20, and I would like to know from the committee if this has been considered because it might affect in some way our relations with Japan. Personally, I do not know the provisions of this treaty. I do not know if the committee can respond to this.

THE PRESIDING OFFICER (Mr. de los Reyes). Will the committee please respond to the query of Commissioner Maambong?

MR. VILLEGAS. Would Commissioner Ople want to respond to this?

MR. OPLE. Yes. It remains to be determined whether or not Japan is a signatory to the Convention on the Law of the Sea and whether or not it has deposited the necessary instrument of ratification. I think the United Nations was waiting for a total of 60 ratifications.

Let us presume that all nations are willing to sign the Convention on the Law of the Sea with the sole exception of the United States. I think these national manifestations have been made and they are a matter of common knowledge. All nations are signifying their intention to ratify this treaty except the United States of America. So if Japan and the Philippines are signatories, I suppose that both countries are bound by the Convention, the 200-mile exclusive economic zone is provided for. In the case of some neighboring countries or adjacent countries, say between Japan and the Soviet Union, actual negotiations have taken place on the economic zone because their seas are narrow and they overlap. In the case of the Philippines, I do not think that there is any basis to fear that this will violate any existing treaty including the Treaty of Commerce, Amity and Navigation with Japan provided that both countries subscribe to the Convention on the Law of the Sea. And it appears at this time – I say this without documentary proof, of course – that both are going to sign or have already signed the Convention on the Law of the Sea and therefore the deposits of the instruments of ratification should be forthcoming.

MR. MAAMBONG. Mr. Presiding Officer, I am prepared to accept the explanation if the committee is also accepting the same.

MR. VILLEGAS. We do accept the explanation of Commissioner Ople.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I ask that we close the period of amendments.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner de Castro is recognized.

MR. DE CASTRO. Before we close the period of amendments, I would like to request a correction on page 6, the last line of the unnumbered section. It says: "and adopt measures that help them be competitive." I suggest "adopt measures TO MAKE them competitive."

MR. MONSOD. That is being corrected, Mr. Presiding Officer. It should read: "and adopt measures that help make them competitive."

MR. DE CASTRO. Agreed.

MR. MONSOD. Thank you.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the Commissioner satisfied?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Davide is recognized.

MR. DAVIDE. Before we close the period of amendments, I would like to invite the attention of the Commission and the committee particularly to page 3, the last sentence of Section 4, reading: "The foregoing shall be subject to the requirements of agrarian reform." That should be deleted as a consequence of my amendment to incorporate "requirements of agrarian reform" in the preceding sentence, which is now actually incorporated.

MR. VILLEGAS. The Commissioner is right. This was a typographical error.

MR. DAVIDE. So, I move for the deletion of the sentence: "The foregoing shall be subject to the requirements of agrarian reform," which is the last sentence of Section 4, page 3 of the last working draft.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection to the Davide motion to delete the last sentence of Section 4? *(Silence)* The Chair hears none; the amendment is approved.

Is there any other manifestation or amendment?

Commissioner Azcuna is recognized.

MR. AZCUNA. I just would like to change the words "territorial waters" in the Ople amendment to "ARCHIPELAGIC WATERS" because "territorial waters" and "territorial sea" are practically the same. This is also to bring it in line with the archipelagic principle enshrined in the Convention on the Law of the Sea and also in our Article on National Territory.

THE PRESIDING OFFICER (Mr. de los Reyes). What is the reaction of the committee?

MR. VILLEGAS. On page 7, the first unnumbered section.

MR. AZCUNA. Yes, archipelagic waters and territorial sea.

MR. OPLE. Mr. Presiding Officer, the committee now has jurisdiction but as the principal author of this amendment, may I say that I will graciously yield to the proposal of Commissioner Azcuna and would invite the committee to do the same, also with the concurrence of Commissioner Davide, who introduced the phrase "territorial sea" into the amendment.

MR. FOZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Foz is recognized.

MR. FOZ. I would like to ask whether or not we will change "territorial seas" to "ARCHIPELAGIC WATERS."

MR. AZCUNA. No, Mr. Presiding Officer. We changed "territorial waters" to "ARCHIPELAGIC WATERS" because it mentions both territorial waters and territorial seas.

MR. OPLE. So, it will be territorial sea and archipelagic waters.

MR. AZCUNA. Yes, it will be "ARCHIPELAGIC WATERS, territorial seas and the exclusive economic zone," which come geographically one after the other.

MR. FOZ. Thank you, Mr. Presiding Officer.

MR. VILLEGAS. We accept the change in style.

MR. AZCUNA. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection to the change being proposed by Commissioner Azcuna? *(Silence)* The Chair hears none; the amendment is approved.

The Floor Leader is recognized.

MR. RAMA. May I reiterate my motion to close the period of amendments.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Mr. Presiding Officer, I move that we vote on Second Reading on the whole text of the Article on National Economy and Patrimony.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Sarmiento is recognized.

MR. SARMIENTO. Before we vote on Second Reading, I rise with fear and apprehension. Mine would be a radical suggestion and I beg the kindest indulgence of the Members of this august body.

Mr. Presiding Officer, we have finished discussing all of the sections and we deeply appreciate the accommodation given us by the committee. I just would like to move for the suspension of the Rules so that we can discuss some of the provisions which to us are controversial. For instance, my proposal is for the reopening of Section 1, so that instead of using the words "based on," it should be "TOGETHER WITH" or "CONSISTENT WITH." After all, this was the explanation given by the members of the committee when we tackled Section 1.

I respectfully submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Sarmiento, if we suspend the Rules, I think it should be made on motion of the chairman of the Steering Committee, in which case it will require a two-thirds vote.

MR. SARMIENTO. Yes, I know that.

THE PRESIDING OFFICER (Mr. de los Reyes). But if it is made by an ordinary Member of this Commission, it will need a unanimous vote.

MR. SARMIENTO. I am aware of that ruling, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Is the Commissioner submitting himself to that rule?

MR. SARMIENTO. Yes, Mr. Presiding Officer.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. The committee is in receipt of 22 supposed proposals to amend, based on suspension of the Rules and reconsideration of all the articles that have been approved. The position of the committee is that we have not fully discussed nor have we agreed with the proponents on these proposed amendments. And what we would like to suggest is that instead of voting on the suspension of the Rules, we vote on Second Reading because, in any case, a suspension of the Rules would be necessary while the committee sits down with the proponents and see if we can agree on changes in the provisions that have already been approved.

And so, until that time, it may not be timely for us to suspend the Rules and reopen now because we have not finished. If and when we can agree, then that would be the time to ask for a suspension of the Rules.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Aquino is recognized.

MS. AQUINO. My fear is that the motion being presented by Commissioner Sarmiento is a prejudicial question which some of us may be inclined to vote in favor of or against, depending on the tendencies of the amendments that are being presently considered. Without unduly burdening the committee, I think we should defer the vote on Second Reading until after we have considered the amendments that are now pending.

MR. MONSOD. Mr. Presiding Officer, if the committee is being asked at this time, the committee's position is that the amendments being proposed are too many and are unacceptable to the committee. That is why we do not want to go into that right now. But in any case, we would need a suspension of the Rules and, therefore, we are asking that we go on, without prejudice to such moves, should the committee be able to agree on the changes.

MR. SUAREZ. Mr. Presiding Officer, may we be recognized?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

I would like to go along with the suggestion of Commissioner Monsod, short of probably calling for a vote on Second Reading on the article under consideration, because it is a matter of record that quite a number of proposals have been approved in this afternoon's deliberations. It is quite possible that after a careful review of the proposed amendments, many of the provisions approved this afternoon would render moot and academic many of these proposed amendments. I think the committee, as well as the Members of the Commission, would need time to consider the effects of this afternoon's approval of quite a number of proposals.

So, in view of this development, may we suggest that the prejudicial question of suspension of the Rules be suspended and perhaps the committee and the Members on the floor could discuss this among themselves.

THE PRESIDING OFFICER (Mr. de los Reyes). But the motion on the floor is to suspend the Rules, which was made by Commissioner Sarmiento, and it has not been withdrawn. One way or the other, this Commission has to act on it.

MR. SUAREZ. I was wondering whether we could appeal to Commissioner Sarmiento to review the entire situation in the light of this afternoon's developments.

THE PRESIDING OFFICER (Mr. de los Reyes). That depends on Commissioner Sarmiento.

MR. SARMIENTO. Mr. Presiding Officer, with the manifestation of Commissioner Suarez, this humble

Member is willing to accommodate his suggestion. I therefore withdraw my motion.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Guingona is recognized.

MR. GUINGONA. Before we proceed to vote on Second Reading, may I request that the Members of this Commission be given a clean copy of this article, including the amendments which have been proposed and approved by this body today.

MR. SUAREZ. That is a very nice suggestion and I would like to second that motion.

THE PRESIDING OFFICER (Mr. de los Reyes). What does the Floor Leader say to the motion of Commissioner Guingona?

MR. SUAREZ. I am seconding the motion, Mr. Presiding Officer.

MR. RAMA. May I know what is the thinking of the committee?

THE PRESIDING OFFICER (Mr. de los Reyes). The committee will please give its position.

SUSPENSION OF SESSION

MR. RODRIGO. Mr. Presiding Officer, may I ask for a suspension of the session for two minutes?

THE PRESIDING OFFICER (Mr. de los Reyes). The session is suspended.

It was 4:52 p.m.

RESUMPTION OF SESSION

At 4:55 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

MR. GUINGONA. Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

As far as my record is concerned, we have approved this afternoon two amendments: the one presented by Commissioner Quesada and reformulated by Commissioner Aquino and the proposal of Commissioner Gascon. In many occasions, we voted on Second Reading even without a clean copy. For example, on the Article on Local Government, while the Floor Leader asked for a voting on Second Reading, I stood up and requested the Chair for a clean copy. My request was turned down; we voted on Second Reading. On the Article on Social Justice, there were so many amendments made and the Floor Leader again moved for approval on Second Reading and I stood up and requested for a clean copy; the Chair turned me down and we proceeded with the voting on Second Reading. If we will wait for a clean copy with these two short amendments before we vote on Second Reading, is this not a discrimination? I object to the proposition that we be furnished first a clean copy before we vote on Second Reading because I personally have been turned down on my move for a clean copy and I accepted it with grace. If this motion will be accepted, this, to me, is a clear discrimination of Members of this Commission.

Thank you, Mr. Presiding Officer.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Guingona is recognized.

MR. GUINGONA. Commissioner de Castro has forgotten or ignored the fact that we have also made changes in the original text. For example, there has been a deletion of the last sentence of Section 4. There has been a change of the word "territorial waters" to "ARCHIPELAGIC WATERS." The situation is different now because we have quite a number of unnumbered sections and we are not even informed as to the sequence or arrangement or the placing of these in relation to the other sections. That is why this is not going to be a matter that would be similar to the situations that the Honorable de Castro has referred to.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. DE CASTRO. Mr. Presiding Officer, considering that there are some deletions and corrections in the other sections of this article, there were more corrections in the Article on Social Justice; there were more corrections in the Article on Local Government for which this humble Member requested a clean copy but was turned down. This, to me, is a clear discrimination by this Commission.

THE PRESIDING OFFICER (Mr. de los Reyes). There is no discrimination because the Chair has not yet ruled.

MR. GUINGONA. Mr. Presiding Officer.

MR. DE CASTRO. I hope that there will be no discrimination.

MR. RAMA. May I ask that Commissioner Monsod be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Monsod is recognized.

MR. MONSOD. I just want to call the attention of Commissioner Guingona. There are only two provisions and, in fact, they have been circulated. There are only two minor changes – "ARCHIPELAGIC" in lieu of "territorial" and the deletion of a phrase. Perhaps, we should be truthful and say that if there is going to be a deferment, it is an accommodation, instead of trying to justify on the basis of technicalities.

MR. GUINGONA. No, no.

MR. MONSOD. I am saying that we are trying to see if there is room for accommodation and I think Commissioner de Castro is correct to say that if there is an accommodation here, that would mean a discrimination because when he was the one asking for it, it was not granted. So, let us just be truthful and then see what we can do about it.

MR. GUINGONA. Mr. Presiding Officer, I am not aware of the circumstances mentioned by the honorable Commissioner de Castro, but I mentioned other matters which I considered when I presented my motion, and this is the fact that there are quite a number of sections that have no number and no proper sequencing. However, Commissioner Monsod has given an additional reason and I am willing to accept the reason which I did not consider before. In addition to these reasons, I would like to ask for a deferment in order to accommodate the honorable Commissioners who have additional amendments to offer with respect to the text.

MR. MONSOD. There are no additional amendments. I correct the Commissioner.

MR. GUINGONA. Then whatever amendments they may have.

MR. MONSOD. Will the Commissioner please tell us his reason for seeking for a deferment?

MR. GUINGONA. The Commissioner was the one who mentioned it. He said: "Precisely, we wanted to accommodate." I was talking of the accommodation so that the committee and the group of Commissioner Suarez could meet and perhaps agree.

MR. MONSOD. Perhaps I should refresh the Commissioner's memory. We have in the record right now that the committee has said that it would prefer to go on Second Reading.

MR. GUINGONA. I know. I heard that.

MR. MONSOD. That is what is in the record right now.

MR. GUINGONA. Yes.

MR. MONSOD. And the Commissioner was the one who asked for a deferment.

MR. GUINGONA. Exactly. I know that, too.

MR. MONSOD. May I ask the Commissioner's reason?

MR. GUINGONA. I gave the reasons and I am also adding the reason that the Commissioner has suggested.

MR. MONSOD. I did not suggest.

MR. GUINGONA. And I have a pending motion, Mr. Presiding Officer, which has been seconded. I would like to ask for a vote.

THE PRESIDING OFFICER (Mr. de los Reyes). I think Commissioner Rosario Braid has something to say.

MS. ROSARIO BRAID. I would just like to suggest that we vote now on Second Reading and request the committee to do the sequencing afterwards.

MR. GUINGONA. May I still ask for a vote and if we could . . .

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bengzon is recognized.

MR. BENGZON. I would like to remind the body that there is no more chance for any amendment to be presented because the body has already closed the period of amendments. So, what is the motion that is on the table now? I heard something about giving an accommodation or to give a chance to the others who may have other amendments. There are no more amendments. There will be no more amendments because the period of amendments has been closed. So, the accommodation that Commissioner Monsod was saying is an accommodation on the part of those who wish to defer the voting on Second Reading of the Article on National Economy and Patrimony. And if it is an accommodation, what Commissioner Monsod was trying to say is that if the Chair so rules, then there would be no discrimination.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). We shall just throw to the body the question of whether or not we shall vote on Second Reading on the Article on National Economy and Patrimony.

MR. GUINGONA. Yes, but may I just add that in connection with the statements of Commissioners Monsod and Bengzon, I have here the paper which was given to us and it is entitled: "Proposed Amendments Submitted to the Committee on National Economy and Patrimony" and this is exactly the paper that Commissioner Suarez was talking about. If the committee is saying that they are not accepting any further amendments, in effect, they are saying they are no longer willing to discuss this paper. Is that the sentiment of the committee?

MR. BENGZON. Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner de Castro is recognized.

MR. DE CASTRO. The Floor Leader has clearly moved for the closure of the period of amendments and it was approved by the body. Then he moved for a vote on Second Reading, and that was the time when somebody asked for a clean copy and deferment of the voting on Second Reading.

Mr. Presiding Officer, the real reason here is, somebody wanted to put some more amendments beginning with Section 1. There was a need for a suspension of the Rules, and the honorable Presiding Officer stated the Rules: If presented by a Member, then it will be by unanimous vote, and if it is by the chairman of the Steering Committee, by a two-thirds vote. Then the committee, being diplomatic, which diplomacy had been ruling the whole day, would like to consider the motion of suspension of the Rules after we have voted on Second Reading.

Mr. Presiding Officer, I am only asking for equality of treatment in this Commission. If that cannot be given, then somebody will have to get out of this Commission. I will not walk out; I am going to resign if discrimination shall prevail in this Commission.

THE PRESIDING OFFICER (Mr. de los Reyes). The Chair will make a ruling.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Just a moment, the Chair will make a ruling.

The Floor Leader made a motion that we proceed to vote on Second Reading. Commissioner Guingona actually amended the motion by asking for a deferment and a clean copy thereof.

MR. GUINGONA. But before that, Mr. Presiding Officer, there was a motion for reconsideration.

THE PRESIDING OFFICER (Mr. de los Reyes). Yes, but that was already withdrawn.

MR. GUINGONA. Yes.

THE PRESIDING OFFICER (Mr. de los Reyes). So, there is no more motion for suspension of the Rules; that was already withdrawn.

MR. GUINGONA. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). So, the first question to be tackled is Commissioner Guingona's motion on whether or not to defer the vote on Second Reading in order to enable the Members to have a clean copy. If the motion is upheld, then we shall defer; if the motion is lost, then we shall proceed with the vote on Second Reading.

MR. GUINGONA. Yes. May I make a manifestation.

THE PRESIDING OFFICER (Mr. de los Reyes). What is the manifestation of the Commissioner?

MR. GUINGONA. Upon consultation with Commissioner Suarez, I have agreed to withdraw my motion.

THE PRESIDING OFFICER (Mr. de los Reyes). So, we shall now proceed with the voting on Second Reading.

MR. SUAREZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Suarez is recognized.

MR. SUAREZ. May we ask for a suspension of the session for two minutes?

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection to the motion to suspend?

MR. SUAREZ. We can clear up the parliamentary situation.

MR. BENGZON. What is the parliamentary situation that has to be cleared up, Mr. Presiding Officer?

MR. SUAREZ. Because we heard the Chair say that the current situation is that there will be a voting on Second Reading.

MR. BENGZON. Correct.

MR. SUAREZ. Is our understanding in this regard correct?

THE PRESIDING OFFICER (Mr. de los Reyes). Yes.

MR. SUAREZ. And this was brought about because of the withdrawal of the motion of Commissioner Guingona.

THE PRESIDING OFFICER (Mr. de los Reyes). Which we would have voted upon.

MR. SUAREZ. That is right. So, what we are trying to say is that without any emotional disturbances, this consolidated proposal that we have submitted is addressed against those sections that were already approved by this Commission. This can be taken up by us directly with the committee in order that we can assess the effects of what have already been approved and stated in the record this afternoon, and what possible effects these would have on our consolidated motion to amend, if the Rules are suspended.

In other words, these are parliamentary situations which have to be cleared up step by step so we will not be confused. We would like to have a methodical presentation of all of these problems, including a possible suspension of the Rules on a partial basis. This is a capsulized version of what steps we propose to be taken by the Commission.

Assuming that the proposed consolidated amendments, which are addressed on those sections already approved, would refer to Section 1, then this humble Member would make a move to suspend the Rules only for the purpose of reviewing Section 1. It will probably not embrace a suspension of the Rules for all the 22 or 23 approved sections under the Article on National Economy and Patrimony. That is what we are trying to convey, not only to the committee and to the Chair, but to all the distinguished colleagues that we have in this Commission.

MR. BENGZON. Mr. Presiding Officer, may I just clear up the parliamentary situation as it is?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bengzon may proceed.

MR. BENGZON. Whether or not we vote now on Second Reading on the article, we would have to have a suspension of the Rules in the event that the committee and Commissioner Suarez's group arrive at some agreement on this particular white paper consisting of four pages. That is another matter. There was already a gentleman's agreement insofar as that is concerned: that even after this Article on National Economy and Patrimony is passed on Second Reading, the committee, in its effort again to reconcile, would sit down with Commissioner Suarez and his group to go over these proposals consisting of four pages.

But we have already closed the period of amendments and there is a motion now to vote on Second Reading; the motion of Commissioner Sarmiento has been withdrawn. So, what we should really do now is vote on the article on Second Reading, after which, tonight or tomorrow the committee will sit down with Commissioner Suarez and his group and go over these many pages of white paper; and if we agree on certain matters, that is the time when we will tackle the parliamentary procedure of going back to the floor and asking for a suspension of the Rules.

Therefore, Mr. Presiding Officer, may I request that we already vote on Second Reading.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Ople is recognized.

MR. OPLE. In the light of the gentleman's agreement that has been revealed which, I think, by his acquiescence, Commissioner Suarez has confirmed, I just want to make the manifestation that there are some Members of this Commission, myself included, who are not ready to be bound by any agreement between the committee and the group of Commissioner Suarez.

Thank you.

MR. BENGZON. That is clear. We are not asking and we are not even implying that the Commissioners in this Commission will be bound. That is precisely why we will submit everything to the floor, whatever is the result of the meeting.

MR. VILLEGAS. And especially as far as Section 1 is concerned, because the most controversial paragraph there is something that we have to consult about, and that is very clear.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The Floor Leader is recognized.

MR. RAMA. With all those clarifications, may I reiterate my motion that we vote on Second Reading.

MR. GUINGONA. Mr. Presiding Officer, may I just ask a parliamentary question?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Guingona is recognized.

MR. GUINGONA. Section 28 of our Rules says:

> After a resolution providing for a constitutional proposal has been approved on Second Reading, it shall be included in the Calendar for Third Reading.

I was wondering if this particular rule will apply. If we approve this on Second Reading, then, would the Steering Committee have the authority now to calendar this for Third Reading?

THE PRESIDING OFFICER (Mr. de los Reyes). That is the general rule but, as the Steering Committee said, we can always suspend the Rules depending on the agreement.

MR. GUINGONA. So, the calendaring of this will be subject to that gentleman's agreement?

MR. MONSOD. Mr. Presiding Officer, perhaps, we should clarify that. I think Commissioner Ople's comment is correct. The committee is willing to take a look at this but there is no gentleman's agreement or any amendments to be accepted.

THE PRESIDING OFFICER (Mr. de los Reyes). Does Commissioner Rodrigo still have any inquiry?

MR. RODRIGO. No. It is all right. So as not to delay the proceedings, let us now vote on Second Reading.

THE PRESIDING OFFICER (Mr. de los Reyes). Does Commissioner Aquino have any inquiry?

MS. AQUINO. Is that the ruling of the Chair?

THE PRESIDING OFFICER (Mr. de los Reyes). No, the ruling of the Chair is that we shall first submit the question on whether we shall have a voting on Second Reading or not.

MS. AQUINO. So, the prejudicial question is whether we will defer or not.

THE PRESIDING OFFICER (Mr. de los Reyes). That is the prejudicial question because the motion of the Floor Leader was actually objected to by Commissioner Suarez. That was the effect of the manifestation of Commissioner Suarez.

MS. AQUINO. May I make a final manifestation, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Aquino is recognized.

MS. AQUINO. We supported the motion to defer the vote on Second Reading not so much because we were asking for clear copies as it is actually because of the dilemma of some of the Commissioners, including myself. For the moment, some of us are inclined to vote against it; some of us are inclined to abstain; some of us are inclined to vote in the affirmative. But in the absence of a thoroughgoing opportunity for intellection of the pending amendments, at the same time the opportunity maybe to face an honorable loss, we are not yet adequately prepared to make the correct vote.

In other words, for me, a vote is an expression of a conviction. And in view of the fact that some of the amendments are still not scheduled for deliberation, I would plead for this opportunity to allow us the chance for intellection and if we lose, then the opportunity for an honorable loss. I do not think we are asking too much. This is not any backdoor tactic or maneuver; it is just an admission of inadequacy.

MR. MONSOD. Mr. Presiding Officer.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. de los Reyes). The session is suspended.

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:38 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. de los Reyes). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I would like to find out from the committee if there was some kind of an understanding that they have reached.

I ask that Commissioner Suarez be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). The Chair interprets Commissioner Suarez' manifestation earlier as an objection to the motion of the Floor Leader to call a vote on Second Reading on the Article on National Economy and Patrimony. Is he still insisting on his motion?

MR. SUAREZ. Mr. Presiding Officer, I would not like to be instrumental in adding confusion to what is already a complicated situation. I wonder, with the indulgence of the Members of this Commission, if it is possible that we adjourn. We are mentally and emotionally exhausted regarding procedural and substantive discussion on the Article on National Economy and Patrimony, and maybe we could sleep over these problems that are now confronting the Commission. I am not making a motion to adjourn; I want to make it very clear. I am only hoping that probably sleeping over it through the night would enlighten us further on what practical course of action should be taken in connection with the matter pending before us.

MR. VILLEGAS. Mr. Presiding Officer, I would like to say that the committee is not in favor of adjournment and we would like to insist on deciding to vote on Second Reading. I think, without adding to the emotionalism, if anyone is to complain about discrimination, I, as chairman of the Committee on National Economy and Patrimony, feel extremely discriminated against because, for the information of everyone, this is already the twentieth day of the deliberations of this article and we still are not in our Second Reading. Something must be very terrible about the committee.

So, I would insist to vote on Second Reading without precluding the possibility of the Rules being suspended if we should come to an agreement and if the Commission, especially after the manifestation of Commissioner Ople, would agree to our agreement.

MR. SUAREZ. May I just make one thing crystal clear, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

I appreciate the candidness of the chairman of the Committee on National Economy and Patrimony. I would just like to make it very, very clear that if we go into the process of voting on Second Reading, that will not preclude anyone of the Members of this Commission to ask for a suspension of the Rules in order that we can take a review of any of the sections already approved on Second Reading by the Commission.

MR. VILLEGAS. Yes, Mr. Presiding Officer.

MR. SUAREZ. And would the committee be gracious enough to consider the wisdom and practicality of such a request?

MR. VILLEGAS. Yes, Mr. Presiding Officer.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bengzon is recognized.

MR. BENGZON. Of course, that is all subject to whether or not the Commission would agree to suspend the Rules.

MR. SUAREZ. Of course, that is understood. What I am only trying to say, because that will depend on whatever action the entire Commission will take, is that it is without prejudice to the reservation now being accepted and being made to the effect that if and when we feel that the circumstances warrant it, it will be without prejudice to anyone of the Commissioners to ask for the suspension of the Rules after having conferred with the distinguished members of the Committee. And that was what was expressly stated by the honorable chairman.

MR. VILLEGAS. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). So that is the understanding?

MR. VILLEGAS. That is the understanding, Mr. Presiding Officer.

MR. SUAREZ. Thank you.

APPROVAL OF RESOLUTION NOS. 496 & 533 ON SECOND READING

(Article on National Economy and Patrimony and Provision on Ancestral Lands)

THE PRESIDING OFFICER (Mr. de los Reyes). Therefore, we shall now proceed to vote on Second Reading on the report of the Committee on the National Economy and Patrimony.

As many as are in favor of the Article on National Economy and Patrimony, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

MR. SARMIENTO. I abstain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Please record the abstention of Commissioner Sarmiento.

The results show 26 votes in favor, 9 against and 1 abstention; the Article on National Economy and Patrimony is approved on Second Reading.

MR. GASCON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Gascon is recognized.

MR. GASCON. I think there were three abstentions.

THE PRESIDING OFFICER (Mr. de los Reyes). Please correct the records; there were three abstentions. This was what was submitted to me by the Secretary-General.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Rodrigo be recognized.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Rodrigo is recognized.

MR. RODRIGO. This is about the resolution that I filed this morning. Several amendments have been submitted to me by different Commissioners, most of which I accepted. The one who submitted amendments were Commissioners Suarez, Bernas, Davide, Villacorta and Bennagen jointly, and Christine Tan.

In the first paragraph, Commissioner Suarez would like to delete the word "interest" before "groups." I accepted this so that instead of "various interest groups," it is just "various groups." And Commissioners Villacorta and Bennagen added after the word "various," "INDIVIDUALS AND," so that the first line would read: "Whereas, various INDIVIDUALS AND groups." Commissioner Bernas' amendment is to place a semicolon (;) after the word "patriotism," which can be found at the end of the second line, and to delete the whole third line which reads: "in an attempt to coerce and intimidate them." So that the first paragraph would read: "Whereas, various INDIVIDUALS AND groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism."

On the second paragraph, Commissioner Suárez would like to change the word "tactics" to "ACTS." And Commissioner Bernas would delete the phrase "and to influence Members of the Commission"; change the word "their" to "THE"; and between the words "right" and "to," insert the words "OF MEMBERS." So that the second paragraph would read: "Whereas, these ACTS tend to subvert the independence and credibility of the Commission and restrict THE right OF MEMBERS to vote freely on issues."

On the third paragraph, Commissioner Davide would add "AND ITS MEMBERS" after "Commission." Commissioner Bernas would delete the phrase "from any source" on the second line and delete the letter "s" in "pressures." So that the paragraph would read: "Whereas, the independence of the Commission AND ITS MEMBERS from any external pressure is indispensable to the accomplishment of its task."

On the last paragraph, Commissioners Villacorta and Bennagen would add after the words "to deplore" the words "AND PREVENT." Commissioner Bernas would delete the phrase "action from any source"; in lieu thereof insert the word "ATTEMPT." And Commissioner Tan would delete the words "each and every"; in lieu thereof insert the word "THE" and add "S" to "MEMBER." So that the resolutory paragraph would read: "resolves to deplore AND PREVENT ANY ATTEMPT to subvert the independence and credibility of the Commission; and

"FURTHER, RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of THE MEMBERS of the Commission."

THE PRESIDING OFFICER (Mr. de los Reyes). Will Commissioner Rodrigo please read the resolution as a whole?

MR. RODRIGO. I have my own amendment to the title. The title should read: "RESOLUTION OF CONFIDENCE."

The whole resolution will read: "Whereas, various INDIVIDUALS AND groups have been making unfounded charges against Members of the Commission, impugning their integrity and patriotism;

"Whereas, these ACTS tend to subvert the independence and credibility of the Commission and restrict THE right OF MEMBERS to vote freely on issues;

"Whereas, the independence of the Commission AND ITS MEMBERS from any external pressure is indispensable FOR the accomplishment of its task;

"NOW, THEREFORE, the Commission hereby resolves to deplore AND PREVENT ANY ATTEMPT to subvert the independence and credibility of the Commission; and

"FURTHER, RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of THE MEMBERS of the Commission."

MR. FOZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Does Commissioner Foz want to say anything?

MR. FOZ. Mr. Presiding Officer, may we suggest an additional word on the second sentence.

MR. RODRIGO. Second paragraph?

MR. FOZ. I mean, on line 2 of the first paragraph, insert between the words "against" and "Members" the word "CERTAIN."

MR. RODRIGO. I accept that – "against CERTAIN Members."

MR. FOZ. In the last paragraph, in the resolutory paragraph, have we removed "each and every"?

MR. RODRIGO. Yes.

MR. FOZ. The words "each and every"?

MR. RODRIGO. Yes. That is Commissioner Tan's amendment. So, instead of "each and every," it should be "THE MEMBERS of the Commission."

MR. FOZ. That is all, Mr. Presiding Officer.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Villacorta is recognized.

MR. VILLACORTA. May we emphasize that Commissioner Bennagen and I proposed amendments to the resolution.

We would like to emphasize that this resolution is also directed at attempts to present possible foreign interests and try to influence this Constitutional Commission, either directly or indirectly; directly, through their physical presence and action that would have the effect of tainting the reputation, independence and integrity of this Constitutional Commission. We would just like to make that clear because foreign intervention is very much possible, given the sensitive task and the sensitive issues that we are tackling.

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). The observation of Commissioner Villacorta is noted.

Commissioner Tingson is recognized.

MR. TINGSON. May I be allowed by the Chair to say a few words about this resolution?

THE PRESIDING OFFICER (Mr. de los Reyes). Please proceed.

MR. TINGSON. Mr. Presiding Officer, I speak to support this resolution which is a splendid gesture calculated to heal and to reconcile. We cannot afford to do less. The whole country, nay, the whole world, anticipates with high expectations that social and political stability in these fair isles would surely follow the ratification of our new charter.

Mr. Presiding Officer, he who trusts can be trusted. He who forgives deserves mercy. The resolution authored by the Honorable Rodrigo deserves our unanimous approval and active support. It deplores what is negative, yet it speaks eloquently of the positive virtues of independence, integrity and patriotism.

Mr. Presiding Officer, I say "Amen" to this resolution.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada is recognized, to be followed by Commissioner Bernas.

MS. QUESADA. I would just like to have some clarifications.

Would the adoption of this resolution, in effect, set a precedent for this constitutional body to respond to all the criticisms and charges impugning the integrity and patriotism of the Members of the Commission by individuals, groups or even the media? Because we have had several resolutions and even some interventions within everytime we have this feedback from the public. I firmly believe that as Members of this constitutional body, we are, in effect, public functionaries or officials who will be subject to public criticism as are all people in public governance. So, I was wondering, if this body adopts this resolution, would it respond to every Member of this Constitutional Commission who will be the subject of any criticism?

I do recall that in the past, even before we started our sessions, some Members of this Commission were already charged or labeled by the media. I do recall that I was one of those who were named or labeled as hardcore leftists of the University of the Philippines, together with Commissioners Bennagen and Garcia. So, there will always be this imputation. Some media people will charge us as spoiled brats, emotional, et cetera, but does this mean that every time we get this kind of feedback from individuals or groups, we will rise up here and pass another resolution?

THE PRESIDING OFFICER (Mr. de los Reyes). Is that directed to the Chair or to Commissioner Rodrigo?

MS. QUESADA. I am presenting this to the body because this is only one occasion. There will be many more, I am sure, because we will not be discussing about persons but issues that will incite people to react. And we feel that possibly, after we have drafted this, there will be more criticisms. So, this is just to ask the body now on whether or not we will rise as one body to defend every Member of this constitutional body, not just three or four, but each Member who will henceforth be the subject of unfounded charges that will impugn his integrity, nationalism and patriotism.

MR. RODRIGO. Mr. Presiding Officer.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Will Commissioner Rodrigo care to reply?

MR. RODRIGO. I cannot answer for the other Commissioners, but as for me, it will depend on the seriousness of the circumstances.

MS. QUESADA. Would the Commissioner say then that this is the particular body or forum that would investigate or disprove whatever charges will be hurled against any Member of this body, whether it be the media in public forums or wherever? Who is to say that charges are unfounded? Will it be the function of this body to now investigate charges which we claim from our vantage point as unfounded?

MR. RODRIGO. We are not investigating; we are just passing a resolution. As a matter of fact, this resolution has not been voted upon. I do not even know if it is going to be approved. I am submitting this because I think that circumstances warrant its approval. As to whether in the future I would act in the same manner, it will all depend on my appreciation of the circumstances. But I cannot answer for the others in the body.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bernas is recognized.

MS. QUESADA. Mr. Presiding Officer, I just want to express this concern and, possibly, for the body to really come out with a decision because I fear that the moment we do this now, there is no stopping the other resolutions because I expect that our decisions here will always be subjected to criticism from all sides. And with the freedom of expression and of the press that we now have, whenever the media feels that they would like to criticize, it will just come out in print or be broadcasted. There will be no limits unless there will be an ombudsman in the media sector to make it more responsible.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bernas is recognized, to be followed by Commissioners Guingona, Tan and Gascon, respectively.

FR. BERNAS. Mr. Presiding Officer, I wonder if Commissioner Rodrigo will accept an amendment in the body of the resolution itself so that it will read: "resolves to deplore AND PREVENT ANY ATTEMPT FROM ANY SOURCE to subvert the independence and credibility of the Commission," and we stop there.

Let me explain why I suggest the deletion of the last three lines which reads: "and FURTHER RESOLVES to reaffirm its confidence in the independence, integrity and patriotism of Members of the Commission." While I have no reason for not having confidence in the independence, integrity and patriotism of the Members of the Commission, it would seem to me that the statement from us affirming our own independence and integrity would be self-serving and would perhaps not enhance our own dignity. We stand on the basis of our own performance rather than on the basis of what we say about ourselves. So, for that reason, I would recommend an amendment to delete the second part of the resolution.

MR. RODRIGO. So, where will the Commissioner place the period (.)?

FR. BERNAS. I will put the period (.) after "Commission."

MR. RODRIGO. I accept.

THE PRESIDING OFFICER (Mr. de los Reyes). Is it accepted?

MR. RODRIGO. Yes, I accept the amendment.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Mr. Presiding Officer.

I was going to make exactly the same observation as that of Commissioner Bernas. I believe that this last part is self-serving and, therefore, I will not repeat the reasons that he has already stated to which I concur.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Foz is recognized.

MR. FOZ. Yes. Reading from the resolutory portion of this resolution which says: "resolves to deplore and prevent," I was just wondering how the Commission could prevent such future attempts .

MR. RODRIGO. I would like to request Commissioner Villacorta, who was the proponent of that amendment, to answer that question.

MR. FOZ. Because we cannot stop people from talking either for or against us. That will involve some kind of censorship.

MR. VILLACORTA. Is the word "subvert" still there, Mr. Presiding Officer?

MR. RODRIGO. Yes.

MR. VILLACORTA. I mean, we would propose the insertion of "PREVENT" if the word "subvert" is retained.

MR. RODRIGO. Yes, it is still retained.

MR. VILLACORTA. So, it is retained. The insertion of the word "PREVENT" has to do with preventing any direct action to subvert the independence and credibility of the Commission. For example, if there should be attempts to directly influence us through the hard-sell approach, the use of physical coercion or other ways that could be interpreted as harassment, I think that is within the means of this Constitutional Commission to prevent that action. That is why we propose that we should not stop at deploring but should prevent this kind of action. That is why I am for action, not just attempt.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Bernas is recognized.

FR. BERNAS. May I plead with Commissioner Villacorta to drop the word "prevent" because it could reflect poorly on us in the sense that it could be read as an attempt on our part to say: "Stop criticizing us." It would be very bad if we give any impression that we resent people who disagree with us, or that we want to stop people who disagree with us.

MR. VILLACORTA. Mr. Presiding Officer, the prevention is not addressed to the criticisms but to subversion of the independence and credibility.

FR. BERNAS. But usually that is done through various forms of criticism.

MR. VILLACORTA. I am open-minded about the proposal, Mr. Presiding Officer, but what do we do with certain possible incidents in which, for example, a known agent of a foreign embassy approaches a Constitutional Commissioner – I am not saying it has happened; it might happen – and tries to influence the vote of that Commissioner. Would it not be incumbent upon the President of the Constitutional Commission to do something about it and not just to deplore it?

FR. BERNAS. To do something about it, yes; but to say that we will prevent it . . . . As a matter of fact, the situation which the Commissioner described has already happened. I mean, suppose somebody does that?

MR. VILLACORTA. The Commissioner has said it already; it has happened.

FR. BERNAS. No, no, I did not mean that. What the Commissioner was asking was, suppose somebody does that? If somebody does that, then one can do something about it but we cannot prevent him from doing that ahead of time.

MR. VILLACORTA. Could the Commissioner propose an alternative word?

FR. BERNAS. My alternative would be just to drop the word "prevent" and simply say "WE DEPLORE." And implicit there is the suggestion that there are things we will not take sitting down.

MR. VILLACORTA. Before I accept the proposal, I think the President of the Commission has accepted in principle in one of our caucuses – Commissioner Bernas was there – that agents of foreign interests should not be allowed to sit-in or to be present in our committee meetings. We have nothing against the public attending and, of course, we always welcome the media to attend our committee meetings, but people who are clearly associated with foreign interests, working with foreign embassies and whose main purpose in coming here is to lobby for foreign interests, should not be allowed to attend committee meetings.

FR. BERNAS. Mr. Presiding Officer, my worry is not about the proper things we can do. My worry is more about incorrect interpretations which the word "prevent" might get, interpretations which will be publicized and which can reflect badly on us.

MR. VILLACORTA. As long as I or some other Commissioners here reserve their right to publicly denounce such actions, then I accept the proposal.

FR. BERNAS. That is understood, Mr. Presiding Officer.

MR. FOZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). So, the word "prevent" is dropped?

MR. RODRIGO. May I have a clarification?

THE PRESIDING OFFICER (Mr. de los Reyes). Is it understood that the word "prevent" is dropped?

MR. RODRIGO. May I have a clarification of the amendment in the resolutory clause? The way I understood the amendment, the Commissioner wanted the phrase "action from any source" to be changed to just one word "ATTEMPT." Does the Commissioner want to delete even the phrase "from any source" or not?

FR. BERNAS. I would prefer to just deplore any attempt.

MR. RODRIGO. To deplore any attempt to subvert?

THE PRESIDING OFFICER (Mr. de los Reyes). Does Commissioner Foz have anything to say?

MR. FOZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Foz is recognized.

MR. FOZ. I would like to ask a question, if I may be allowed.

THE PRESIDING OFFICER (Mr. de los Reyes). Please proceed.

MR. FOZ. Did I hear Commissioner Rodrigo say that passing this resolution should not be taken as some kind of a precedent?

MR. RODRIGO. No, why should it be?

MR. FOZ. The Commissioner has said that it would depend on the occasion or the acts performed.

MR. RODRIGO. Yes, that is correct.

MR. FOZ. What about if a columnist of a newspaper would say something like, "The Commission is a do-nothing body and should be abolished," would that statement constitute a serious charge?

MR. RODRIGO. If the Commissioner is asking my opinion, it all depends. If it is only one columnist, I would ignore him. But in this case, it was front paged, headlined. So it depends on the magnitude.

MR. FOZ. Suppose it was made by a well-known columnist who is believed by a lot of people and who has a wide readership and a very good reputation, like Mr. Max Soliven, would it matter?

MR. RODRIGO. It depends on what he says. It is a hypothetical question, I cannot answer it now. It all depends on what he says.

MR. FOZ. He said it before. The fact was that he made a statement in that tenor in one of his columns when he was still a columnist of the *Philippine Daily Inquirer.* It was even thrice, according to Ms. Rosario Braid. Would that constitute a serious charge against the entire Con-Com that would justify passage of a similar resolution of this tenor?

MR. RODRIGO. If the Commissioner will ask me, I would not, because it would just magnify. If somebody else wants to present a resolution, it is up to him.

MR. FOZ. Suppose a Member of this Commission is charged before a certain governmental body with a serious offense, let us say, malversation of funds or estafa, impugning his very integrity, would the filing of a charge like that prompt the entire Commission to rise as one and pass a resolution of the same tenor?

MR. RODRIGO. I would not. First of all, it is *sub judice.*

MR. COLAYCO. Mr. Presiding Officer, may I interrupt for a question of privilege.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Colayco is recognized.

MR. COLAYCO. I would like to suggest a solution to the problem. Under Rule XI of our Rules entitled "Questions of Privilege," which is defined to be those affecting the rights of the Constitutional Commission itself and those affecting the rights, reputation and conduct of the Members, individually, in their capacity as such Member, these problems are ordered to be referred to the Committee on Privileges for investigation and recommendation. I think, in the future, any criticism of our body or any Member of this body should be treated and considered under Rule XI of our internal rules.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Quesada is recognized.

MS. QUESADA. Based on this representation by Commissioner Colayco, would it be proper then that this particular issue on the dignity and integrity of Commissioners be brought to the Committee on Privileges which has not yet received any such resolution? Would that not be the proper procedure if we are going to follow the Rules of the constitutional body?

MR. COLAYCO. Personally, I believe so.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Rodrigo is recognized.

MR. RODRIGO. That would add insult to injury because matters referred to the Committee on Privileges are matters of misconduct on the part of the Commissioners.

MR. COLAYCO. No. I will read verbatim what are questions of privilege. Rule XI, Section 53 (b) states:

> Those affecting the rights, reputation and conduct of the Members, individually, in their capacity as such Member.

MR. RODRIGO. Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

MR. RODRIGO. Without prejudice to anybody referring this to the Committee on Privileges, I ask that we vote on my resolution. It can lose; it can win; let us vote.

MR. RAMA. That is the previous question that I would like to submit to the body.

THE PRESIDING OFFICER (Mr. de los Reyes). We shall now vote on the resolution.

MS. QUESADA. Mr. Presiding Officer, I had an earlier question brought to the body, and that is, would this kind of resolution then set a precedent that the Rules of this body will have to be overruled because now we can always cite the case of this particular resolution passed here without going through the proper procedures?

MR. RODRIGO. Mr. Presiding Officer, this is not a violation of the Rules.

THE PRESIDING OFFICER (Mr. de los Reyes). The Chair will rule.

Rule XI states:

> (a) Those affecting the rights of the Constitutional Commission, its safety, dignity and the integrity of its proceedings;
>
> (b) Those affecting the rights, reputation and conduct of the Members, individually, in their capacity as such Member.
>
> Questions of privilege may be availed of only on Fridays, except when the matter at issue is urgent, subject to the

ten-minute rule. No interpellations shall be allowed beyond the ten-minute rule.

Rule II, Section 8 (14) states:

> *Committee on Privileges, 7 Members* – all matters relating to conduct, right, privileges, safety, dignity, integrity and reputation of the Constitutional Commission and its Members.

If we follow the Rules strictly, we have to take this up on Friday. *(Laughter)*

MR. RODRIGO. Mr. Presiding Officer.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Rodrigo is recognized.

MR. RODRIGO. This is not a privilege speech. As a matter of fact, the three privilege speeches were delivered this morning and they were allowed by the Presiding Officer on the ground that these were urgent matters.

This is not a privilege speech; this is a resolution. All I ask is we vote. Why do we not want to vote on this resolution?

SR. TAN. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. de los Reyes). Commissioner Tan is recognized.

SR. TAN. I think we are becoming microscopic. Somebody out of goodwill just said something and he made a resolution. We did not want it; we amended it; let us vote on it.

MR. RODRIGO. Yes.

SR. TAN. If we want it to be a precedent, it depends on us. If I want it to be a precedent, tomorrow I will make another speech, but we are becoming too much like women, excuse me. *(Laughter)*

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection that we take a vote on the resolution?

MS. QUESADA. I would like the last words to be deleted, "just like women."

THE PRESIDING OFFICER (Mr. de los Reyes). Will Commissioner Rodrigo please read again the resolution.

MR. RODRIGO. The resolution reads:

RESOLUTION OF CONFIDENCE

Whereas, various individuals and groups have been making unfounded charges against certain Members of the Commission, impugning their integrity and patriotism;

Whereas, these acts tend to subvert the independence and credibility of the Commission and restrict the right of Members to vote freely on issues;

Whereas, the independence of the Commission and its Members from external pressure is indispensable to the accomplishment of its task;

NOW, THEREFORE, the Commission hereby resolves to deplore any attempt to subvert the independence and credibility of the Commission.

VOTING

THE PRESIDING OFFICER (Mr. de los Reyes). As many as are in favor of the resolution, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

Is Commissioner Quesada against?

MS. QUESADA. I am against.

THE PRESIDING OFFICER (Mr. de los Reyes). As many as are abstaining, please raise their hand. *(A Member raised his hand.)*

The results show 29 votes in favor, 2 against and 1 abstention; the resolution is approved.

The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA. Mr. Presiding Officer, I move that we adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. de los Reyes). Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:19 p.m.

R.C.C. NO. 74

Thursday, September 4, 1986

OPENING OF SESSION

At 10:01 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Rene V. Sarmiento.

MR. SARMIENTO. A reading from the Book of Sirach, Chapter 25, verse 1:

With three things I am delighted for they are pleasing to the Lord and to man:

Harmony among brethren, friendship among neighbors, and the mutual love of husband and wife.

PRAYER

Loving Father, Friend and Counselor, we are about to finish the work which You, in Your wisdom, have assigned and destined us to do. Yet, frail as we are, we have our fears. Amid the turmoil in our land and our differences in this Commission, we ask: Will we be able to finish our task united and inspired? Will we be able to work hand in hand, unselfishly giving our best until we fulfill the co-creation of a masterpiece?

Loving Father, God of our patriots and heroes, our Refuge through all generations, we are confident that with You teaching us to number our days aright, prospering the work of our hands and filling us at daybreak with Your kindness, we, all Members of this Commission, healthy and sick alike, will succeed in our mission, for in You, with You and through You, nothing is impossible.

As we begin anew our delicate job this morning, and resume it in the days to come, grant us the grace to have harmony and friendship among us in the midst of sponsorship, interpellations, debates, amendments, and amendments to an amendment. Guide us with Your fatherly hand to transcend our biases and prejudices, our selfishness and pride, so that, remembering our limited but precious days in this Commission, we will accomplish our task.

In Jesus' name, we pray. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present
Azcuna	Present*
Bacani	Present
Bengzon	Present*
Bennagen	Present
Bernas	Present*
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present*
Gascon	Present*
Guingona	Present
Jamir	Present
Laurel	Present*
Lerum	Present
Maambong	Present*
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present
Suarez	Present
Sumulong	Present
Tadeo	Present*
Tan	Present
Tingson	Present
Treñas	Absent
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 32 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

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*Appeared after the roll call

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection that we dispense with the reading of the Journal of the previous session? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Rev. Romeo Palma transmitting a resolution adopted by the Inter-Church Ministerial Fellowship, Cotabato City, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 706 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from fifty-three (53) concerned citizens of Davao City and Davao del Sur, appealing to the Constitutional Commission to consider favorably provisions that would enshrine in the Constitution the value of human life, e.g. that an unborn child in its mother's womb should be entitled to the protection of the State.

(Communication No. 707 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory,and Declaration of Principles.

Communication from Mr. Delfin R. Manlapaz, 1707 E. Rodriguez, Sr. Avenue, Cubao, Quezon City, submitting an article "On Import Liberalization" hoping that the same may be of interest and use in the consideration of the Article on National Economy and Patrimony.

(Communication No. 708 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from the Philippine Council of Evangelical Churches, Inc., 62 Molave St., Project 3, Quezon City urging the Constitutional Commission to incorporate, among others, a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 709 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Ms. Pacita G. Infante and fourteen (14) other women of Negros Occidental, expressing concern over the U.S. bases issue, among others, saying that if the U.S. bases are pulled out, the vacuum will immediately be occupied by Russia.

(Communication No. 710 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Philippine Council of Evangelical Churches, Inc., Ozamiz City Chapter, signed by its Chairman, Abraham Mapangal, and ten other officers and members, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 711 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Mr. Juanito J. Manangkil of 266 Sta. Quiteria Road, Caloocan City, suggesting that elections must be for every six years for all elective officials from President to Barangay Captain and that the incumbents including their relatives and relatives by affinity within the fourth degree shall be barred from running for the same position in order to minimize, if not totally eradicate, political dynasty and political warlordism.

(Communication No. 712 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Lucio I. Ricafuente, transmitting Resolution No. 35 on the Sangguniang Panlalawigan of Aklan, requesting the Constitutional Commission to allow in the new Philippine Constitution the retention of the American bases in the Philippines even after the year 1991.

(Communication No. 713 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the Diliman Campus Bible Church, 152 Valenzuela Street, Area 2, U.P. Campus, Diliman, Quezon City, signed by its Pastor, William Girao, and two others, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 714 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Palkan Alliance Church, Palkan, Polomolok, South Cotabato, signed by its Secretary, Mr. Domingo C. Biantan, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 715 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Ma. Paz R. Hidalgo and Leonarda A. Yber, both of Madrid, Spain, requesting inclusion of Spanish as one of the official languages in the new Philippine Constitution.

(Communication No. 716 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Church of the Foursquare Gospel in the Philippines, Romblon-Aklan-Masbate District, Odiongan, Romblon, signed by Rev. Norberto D. Doromal, Jr., urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 717 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Gerardo C. Enriquez, Chairman, Environmental Conservation Movement, Alabat, Quezon, proposing various suggestions on conservation of our natural resources.

(Communication No. 718 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we continue the consideration of Committee Report No. 29 on the Article on Education, Science, Technology, Arts and Culture. We are now in the period of amendments.

THE PRESIDENT. Is there any objection that we continue the consideration on Second Reading of the proposed Article on Education? *(Silence)* The Chair hears none; the motion is approved.

We request the honorable chairman and members of the Committee on Human Resources to please occupy the front seats.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, there was a pending proposed amendment to Section 1, page 1 of the committee report. I submitted yesterday an amended omnibus amendment to the proposed article, and I would like to modify my earlier proposed amendment to Section 1 (a) to read as follows: "IT SHALL BE THE DUTY OF THE STATE TO PROVIDE EDUCATION TO ALL THE CITIZENS, AND TO ENSURE EQUAL ACCESS AND OPPORTUNITY TO IT. MEASURES TO PROMOTE QUALITY EDUCATION AT ALL LEVELS SHALL BE VIGOROUSLY IMPLEMENTED." Madam President, this will actually reconcile the problem presented by Commissioner Ople.

THE PRESIDENT. Will this be the opening paragraph of Section 1?

MR. DAVIDE. Yes, Madam President.

THE PRESIDENT. Is the committee ready to give any observation?

MR. VILLACORTA. The Commissioner is, in effect, amending the proposal which he earlier submitted which states: "THE STATE SHALL PROMOTE THE RIGHT OF CITIZENS, et cetera."

MR. DAVIDE. Yes, Madam President. The modified proposal will reconcile the problem presented by Commissioner Ople and it will also meet what Commissioner Gascon had repeatedly requested that we should emphasize the duty of the State.

MR. VILLACORTA. Commissioner Gascon would like to give his reaction to this proposal.

MR. GASCON. Madam President, we have no serious objection to the Commissioner's proposal, but we would like to emphasize the right of the citizen to such education which is the duty of the State to provide. Although it is implied, we feel that it would be for clarity's sake to make use of the words "the right to education."

MR. DAVIDE. I understand that Commissioner Aquino has a proposal to amend my amendment. I would like to listen to it.

MS. AQUINO. This is an attempt to satisfy the specific desires of the committee in the formulation of Section 1. My proposed amendment to Commissioner Davide's amendment would read: "EVERY CITIZEN HAS AN EQUAL RIGHT TO EDUCATION. THE STATE GUARANTEES THAT NO ONE SHALL BE LEFT WITHOUT ACCESS TO EDUCATION." The qualification of the right with the word "EQUAL" is being introduced to approximate the problem presented by Commissioner Ople on the possibilities of arbitrary classification in terms of availments of educational facilities.

MR. VILLACORTA. Commissioner Guingona is recognized.

MR. GUINGONA. Madam President, this has reference to the use of the word "QUALITY." If the Commissioner would allow me, I would elaborate briefly on the matter of quality education as I had explained in a previous session. The quality of education has been linked by me with the imposition of minimum requirements.

Webster defines "quality" as the degree of conformance to standards. I assume that the word "standards" here would mean acceptable or suitable standards, which would mean that the quality of education should be acceptable or suitable. And there is no agency, body or ministry that is most qualified to provide minimum requirements in order to bring about quality education than the Ministry of Education, Culture and Sports.

As a matter of fact, Madam President, the ministry has done this not only through the Manual of Regulations for Private Schools, but also through numerous memoranda and circulars, as well as other manuals, including the Qualification Standards Manual.

Just to show the extent of coverage of the minimum requirements, Madam President, may I be allowed to enumerate some of the areas of concern. These include administration, institutional objectives, financing, faculty qualifications, library facilities, textbooks and other instructional materials, curricula, laboratory, methods of teaching and physical facilities, which would include prohibition of having more than a number of students or limiting the number of students in a class, and institutional facilities and contributory programs regarding research and community involvement. Of course, there are educational institutions which provide requirements higher than the minimum requirements. And we could say that these schools are providing not only quality education, but higher quality education. It has often been said that education or institutions of higher standards are expected to grow continuously and progressively, which is a reiteration of what I have said earlier that "Better than ever is not enough."

With respect to the word "QUALITY," I think it is the agreed sense of the committee that it should be included in Section 1 (a). However, my personal preference is not to include it in said section, which is sought to be amended by the honorable Commissioner Davide, but in the section on supervision and regulation, which is Section 2 (b). This is precisely the original proposal of the committee as contained in the committee report. It is through external governance, supervision, regulation, prescribing of minimum requirements and seeing to it that these are observed that the aims of quality education are realized.

Thank you, Madam President.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

SUSPENSION OF SESSION

MR. VILLACORTA. Since the members of the committee have different ideas on how to react to the Davide and Aquino amendments, may we request a two-minute suspension.

THE PRESIDENT. The session is suspended.

It was 10:23 a.m.

RESUMPTION OF SESSION

At 10:31 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, during the suspension of session, the three main proponents, Commissioners Aquino, Bernas and this Representation, had agreed to present a joint modified amendment which will be read into the record and sponsored by Commissioner Bernas. Other coauthors of the proposal are Commissioners Monsod and Rama.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, the proposed provision now reads: "THE STATE SHALL, IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS, PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION AT ALL LEVELS OF EDUCATION AND SHALL TAKE VIGOROUS STEPS TO MAKE SUCH EDUCATION ACCESSIBLE TO ALL."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I would like to propose an amendment to the amendment. Can we substitute another word for the word "VIGOROUS," like "NECESSARY" or "APPROPRIATE"?

FR. BERNAS. I would have no objection to a substitute word.

THE PRESIDENT. May the Chair know the substitute word for "VIGOROUS."

MR. MONSOD. It is "APPROPRIATE," Madam President.

THE PRESIDENT. Is that acceptable to the sponsor?

FR. BERNAS. Yes, Madam President.

MR. GASCON. How would the phrase now read?

FR. BERNAS. The phrase would now read: "SHALL TAKE APPROPRIATE STEPS TO MAKE SUCH EDUCATION ACCESSIBLE TO ALL." The provision emphasizes four things: 1) that the primary right of education belongs to the family; 2) that the State has the duty to support this primary right; 3) that the State shall make efforts to support this primary right by promoting quality education; and 4) making such quality education accessible to all.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Just some observations, Madam President. I propose that the reference to the natural right of the parents be deleted from this section and instead transposed to Section 1 (b) regarding compulsory education. In terms of conceptual balance, the perspective and priorities of rights are better placed and appreciated in the context of compulsory education which is included in the committee report. So I propose the deletion of that reference in Section 1 (a) and I would accordingly propose an amendment in Section 1 (b) to accommodate that principle.

MR. GASCON. Madam President, we would like first to express that the committee feels the same way, that the phrase "IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS" is not necessary because it is assumed as the basic premise when we speak of education that it is the right, duty and obligation of the parents to provide for the education of their children. Second, it is included, at this point in time, in the Family Rights Article which shall be presented later on. So because of these two basic premises, we feel that it is unnecessary for it is already assumed.

FR. BERNAS. On that understanding, I would not object to the deletion of the phrase "IN SUPPORT OF THE PRIMARY RIGHT OF PARENTS" on the understanding that this concept is accepted and, in fact, will be enshrined elsewhere in the Constitution.

MR. GASCON. Yes, that is correct. And besides, Madam President, when we speak of that right, we speak of two rights, in fact – the primary right of parents to provide education for their children and the basic right of every citizen to that education.

FR. BERNAS. That is correct, Madam President.

MR. GASCON. So it is not only the duty of the State to support the primary right of parents to provide for education, but also to provide for such a right to education.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Apropos of the comment of Commissioner Bernas that the principle should be stated in some other place, I propose that we recognize the primary right of parents to educate their children in the Article on Declaration of Principles.

MR. GASCON. The committee does not have any objection at all.

MR. MONSOD. Thank you.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. In the proposal of Commissioner Bernas, he vindicates the right of all citizens to quality education at all levels. Am I correct, Madam President?

FR. BERNAS. Yes, The Commissioner is correct.

BISHOP BACANI. I would like to know whether the Commissioner would really want to vindicate the right of every single citizen to education in the tertiary level. Would the Commissioner consider that a right of every citizen?

FR. BERNAS. Yes, I would consider it a right. And although we say that the State shall protect and promote the right of all citizens and also take appropriate steps to make such education accessible to all, this is not a prescription that the State, therefore, should give free education up to the tertiary level but that the State should take steps and promote measures, which will ensure that education up to the highest level would be quality education.

BISHOP BACANI. Yes, but would that mean, Madam President, that the State, therefore, cannot prescribe qualifying examinations which would screen students for education at the tertiary level so that they could say: "I have a right to this. The Constitution vindicates my right to this and so you cannot stop me from having education at the tertiary level as well."

FR. BERNAS. Precisely, part of the duty of the State to provide quality education is the duty to screen those who are not qualified, because if we accept unqualified people into higher education, then we are diluting the quality of education. Besides, not everyone will qualify.

MR. GUINGONA. Madam President, as I mentioned earlier, all rights, including the right to education, are not absolute. In other words, these will be subject to the inherent right of the State to exercise police power.

MS. ROSARIO BRAID. Also, Madam President, we accept the concept of quality. Would quality, to Commissioner Bernas' mind, include taking into consideration the differential aptitudes, the logic, the unique capabilities and limitations of learners who come from different levels of socioeconomic and cultural development?

FR. BERNAS. Yes, we will take those into consideration. A person may have very strong native skills, but because of the fact of background, it may be that these skills are undeveloped. And part of the duty of the State would be to offer opportunities for such a person to be able to develop himself so that he can qualify for higher education.

MS. ROSARIO BRAID. Or to move away from homogeneous curricula and approaches to take into consideration these unique capabilities. Is that the intent?

FR. BERNAS. Yes, Madam President.

MS. ROSARIO BRAID. I ask because, otherwise, we would introduce the concept of appropriateness after the concept of accessibility.

FR. BERNAS. Yes, Madam President. What I am trying to say there is that, for instance, to go into a doctoral level, to allow a person to be promoted to a doctoral level, would already imply that the State should have higher requirements for the doctoral level. If a person is not qualified for that, then there is no right.

MS. ROSARIO BRAID. Thank you, Madam President.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. I would like to suggest that we just state in this section a general principle that the State shall protect and promote the right to education of all citizens. In Section 1 (b), I propose an amendment to read: "The State shall establish and maintain a system of free public ELEMENTARY education AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED."

THE PRESIDENT. Is the proposed amendment acceptable to Commissioner Bernas?

FR. BERNAS. Madam President, I would like to introduce the concept of quality as early as possible. We are trying to raise the standards of education. And if we say that our aim is any type of education, then we would be diluting our aim. So I would like to introduce the concept of quality as early as possible in the very first sentence of the Article on Education.

MR. RAMA. Madam President.

THE PRESIDENT. Commissioner Rama is recognized.

MR. RAMA. I was insisting on the inclusion of the words "QUALITY EDUCATION," because we have a peculiar problem in this country. There has been a survey which shows that many of our schools are "diploma mills." That is a peculiar problem of this country. In other words, we should frame a Constitution not in the vacuum of theories and principles from other countries. We should address this peculiar problem.

Now why quality education? It would be defeating our purpose if we give education to everybody. And with the kind of education that we have which is farcical, it gives no education at all. So this is a peculiar problem that I believe is one of the biggest rackets in this country. The parents are made to pay and sacrifice all their lives to send their children to school to get inferior or no education at all. And that is a waste of money and the biggest racket of which the parents in this country are victims. So I hope that we maintain the words "QUALITY EDUCATION" to address a peculiar problem in this country.

MR. GUINGONA. Madam President, I would like to take exception to the particular remark of the honorable Floor Leader that there is rampant existence of "diploma mills." I do not know of the survey he is talking about. If he is talking of the SOUTELLE survey, what was shown there was that, in general, public education in the elementary and secondary level performs in a less efficient manner than that in the private schools. If he is referring to the Monroe survey, that occurred more than 30 years ago.

What I am trying to say, Madam President, is that generally, our educational system, both public and private, is providing quality education because, clearly, the fact that we have had graduates whom I said had distinguished themselves in many areas of activities and that we have been attracting even foreign students to this country mean that we are not providing a very poor type of education really.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Although Commissioner Guingona, our vice-chairman on Education, has made substantive research on this matter, we still agree with the proponents that on the primary level, particularly in barangay schools, there is much to be desired in terms of quality of education. So I think, generally, the committee accepts the concept of quality which we have included on page 2, Section 1 (c). The proponents would like to transpose this to Section 1 (a) as its first sentence, because we will note that it is on page 2.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissiner Bacani is recognized.

BISHOP BACANI. Actually, my proposal also includes that – that we just state in Section 1 (a) that the State shall protect and promote the right to education of all citizens and amend Section 1 (b) to read: "The State shall establish and maintain a system of free public ELEMENTARY education AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED."

MR. GUINGONA. Madam President, may I invite the attention of the honorable Commissioner that at our caucus held two days ago, the committee agreed that we would deliberate on this proposed article on a section-to-section basis. The honorable Commissioner Bernas is now going to the next section.

Actually, we agreed that the sequencing would not be done by us here on the floor. We have taken into consideration the proposals of the honorable Commissioners Maambong and Monsod and we have, in fact, already prepared our sequencing which we are ready to distribute either this afternoon or tomorrow in final form.

So we believe that the sequencing is not to be considered here. What we should consider is the substance of the various sections. If Commissioner Davide has his own proposal regarding sequencing, we would also be glad to take that into consideration so we should first take the proposal of Commissioner Bernas with regard to Section 1 (a) and proceed to Section 1 (b).

BISHOP BACANI. Madam President, the reason I came in at this point is that precisely I have a difficulty establishing a right of all citizens to education at the tertiary level. I have no difficulty affirming strongly that that should be made accessible to all and that those qualified should be admitted. But I cannot, at this point, affirm that every citizen has a right to education at the tertiary level. That it should be made accessible to all, is quite clear to me; but that everybody has a right to that, is not clear to me. That is the reason I formulated my amendment in that way.

MR. GASCON. I believe Commissioner Tan, who is a member of the committee, wishes to present something.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. I have been feeling confused because we have been talking about quality education and evidently our concept of quality education is different. Some of us believe that we do not have quality education and others believe that we are so great in quality education that foreigners come to our country to be educated.

Since this is very substantial and important for all of us more than sequencing, I would like to ask the president of the Ateneo University to let us know what his ideas are about quality education.

FR. BERNAS. Education is a combination of many things. It involves acquisition of information, development of critical thinking, one's artistic talents, moral qualities and his sensitivity to the needs of others, and so forth. All of these, as much as possible, should be maximized. That is my concept of quality education.

Perhaps, it is easier to define what is not quality education. One has to have, at least, the minimum – reading, writing and arithmetic – at least, mastery of a certain language and reading and writing. That is very basic as far as skills are concerned.

And I think it is generally accepted that education, especially in the elementary level, has deteriorated so much. When a person who has the basic talent is accepted into the secondary school and he or she will be capable of receiving instruction proper to secondary schools. This affects the whole chain. If one has poor quality on the basic level of education, it affects the entire system.

What we are trying to say is that the State should attend to this, and this will have to be very gradual. At the moment, for instance, the emphasis, I think, of the government is on making sure that basic education is really solid, because if it is not solid, it affects the quality of secondary education. If secondary education is poor, then the person goes to college unprepared for college work. And if he is allowed to graduate again with a poor quality college education, he goes to university professional education even more unprepared. So this is my understanding of quality education.

What I am trying to say is that the State should recognize its duty to promote quality education and as much as possible make this accessible to all and not just to the wealthy.

THE PRESIDENT. Commissioner Padilla is seeking recognition.

MR. PADILLA. Madam President, I am in favor of the proposal of Commissioner Aquino which is more simple and clear.

Our country, Madam President, was one of the highest in literacy rate in Asia. Unfortunately, we have illiterates that count to millions. In fact, we wanted to qualify suffrage to the literates but, apparently, the "Rama resolution" objected to it. Many of our people do not even have the basic three "Rs"; they cannot read or write.

I think the primary purpose of state education, if not private education, is to make all our people, if possible, literate, and that is only the primary grades. Then comes the elementary grades, high school and tertiary education: college, university and other higher branches of learning. Madam President, I am in favor of "quality education," because even law students sometimes have no adequate qualification. Many of them cannot even write clear and correct English. But to say that we must assure quality education from the primary or elementary grades to the tertiary level is a beautiful dream. I am not against quality education, but to impose it from the very start when we cannot even make all our people literate is somewhat visionary. We have to be a little more practical and make our people first literate through the primary grades. I have been mentioning minimum requirements to prevent some schools that others call "diploma mills" to operate as sources of profit without the real purpose of true education. But finding or qualifying with the minimum requirements does not necessarily mean high quality education. Why do we not just say, as Commissioner Aquino stated: "EVERY CITIZEN HAS AN EQUAL RIGHT TO EDUCATION. THE STATE GUARANTEES THAT NO ONE SHALL BE LEFT WITHOUT ACCESS TO EDUCATION"? It is very simple as the first paragraph. And later on we may mention elementary, secondary and tertiary education. I do not believe that the State has a right or duty to give all the citizens tertiary education. That will be limited to some students, whom God has given more talents, who are qualified for higher learning. After the elementary grades, and even before high school, many students go to technological schools rather than pursue liberal education. I am in favor of liberal education, with the basic principles of logic, but that cannot be extended to all citizens and, inevitably, not as a mandatory duty of the State.

Thank you, Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. May I just reiterate that when the proposal here says that all citizens should aspire for quality education or that the State should protect and promote the right of all citizens to quality education, it does not mean that everyone is entitled to go to UP. That is not what it means. What it means is that all citizens are entitled to quality education according to their level of talent. At least on the elementary level he should have quality education, but if he has the talent to go further, then he should be given quality education in the secondary level. And if he has the talent to go further, he should be given quality education in the tertiary level. I would like to emphasize the idea of "quality" because we are living in a context of a Philippine situation where educators are precisely deploring the deterioration of education in the Philippines. So, if we just mention education in general again, we are losing this opportunity to emphasize the urgency of raising the level of education in the Philippines. We had a fairly good system of public education some years ago, but it is commonly accepted that both on the private and the public levels, there has been a very serious deterioration in education. And we must address this. We have the opportunity, and we do this by emphasizing "quality." I am telling the State: Do what you can to improve the quality, and do what you can to make sure that this quality education is accessible not just to those who can afford to pay high tuition but to everybody. In other words, to be more concrete, for instance, the State maintains the University of the Philippines. And anyone who is qualified has a right to try to get into UP. We are telling the State here, as much as possible, to establish more state colleges and universities around the Philippines. Or, if this is not acceptable, at least, give subsidies to students so they can go to private schools. This is what we are saying. We are not saying that everyone should go to the university level. We are not saying that at all.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Before I propound one question to Commissioner Bernas, may I just say that with that explanation, I think this provision is not visionary nor idealistic, but practical and good for our people.

When the Commissioner speaks of quality education at all levels, will this include quality education at the preschool?

FR. BERNAS. I do not know what the status of preschooling is now. I think preschool means "before the school."

MR. SARMIENTO. Let us say, nursery and kindergarten. Would these be covered?

FR. BERNAS. I would say no.

MR. SARMIENTO. I thank the Commissioner.

MR. GUINGONA. Madam President, Commissioner Bernas spoke of Philippine conditions and I had made reference to the degree of the quality of education. In relation to tertiary education, if we try to compare, for example, a Filipino student with an American student, then perhaps we could say with reasonable certainty that the first year student in the United States would be better qualified. But that is due to other factors. For example, in the United States, to finish secondary level, the student has to go through 12 years of elementary and secondary education. Here, we only require ten years. So, actually, a first year student in the tertiary level in the Philippines would only be a fifth year high school student in the United States.

FR. BERNAS. Madam President, my own experience is that when some students from some schools in the Philippines go to the United States, they try to enter the equivalent level of the school in the United States. They get in there and they are immediately accelerated. There are some quality schools here.

THE PRESIDENT. May the Chair know whether or not the committee accepts this new formulation.

MR. VILLACORTA. Madam President, before we announce our decision, we would like to point out that things would have been simpler if the body accepted the original formulation of the committee which says:

> Education is the right of every citizen of the Philippines. The State recognizes its duty of providing education to all citizens.

But after conferring with the members of our committee, we are accepting the Bernas, Rama, Aquino and Davide amendments.

MR. GASCON. Madam President, what we would like to emphasize first is that we are now discussing Section 1 (a) and these are the basic principles we would like the body to discuss: the right of every citizen to education and the duty of the State to provide for such education. We are not yet speaking of the different levels and others.

Now there have been proposed reformulations of the basic principles. For example, in the Aquino, Bernas, Davide and Rama amendments, when we speak of the duty of the State, of course, we are already taking as a basic premise the primary right and duty of the parents. This is already an assumed premise. The duty of the State to provide education is included in the phrase "The State shall protect and promote." Then the provision defines that there is such a right to education of all citizens. It continues to define further its duty by stating that it shall take appropriate steps to make education accessible, which is the basic essence of the second sentence in our original proposal. There is a new added concept, which is the concept of quality education, the definition of education that not only is it the duty of the State to support the citizen's right to education but also to assure that whatever education such a citizen thinks as his right, should be quality.

We do not define quality as the levels of education alone – primary, secondary, tertiary. There could be different forms of quality education. So this is a new added concept to our original proposal; that is why we have accepted the proposed section. We feel that it still reflects our basic principles of defining the right of the citizen to education and the duty of the State to provide for such.

BISHOP BACANI. Madam President.

THE PRESIDENT. Just a very brief reminder, Commissioner Bacani, because this matter has already been sufficiently discussed in the previous meetings.

BISHOP BACANI. The reason I objected to the formulation of Commissioner Bernas was that I thought he was asserting a right to college education for all. But now I see that the thrust is to have a right to quality education in the college level. So I do not interpose any objection to Commissioner Bernas' proposal.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

We would just like to clarify a few points with Commissioner Bernas because I heard Commissioner Gascon say that the Bernas proposal elevates the right of citizen to education to the right of citizen to quality education. Is my understanding correct?

FR. BERNAS. Yes, although I would say that we are not saying different things. I am sure that when Commissioner Gascon says education, he means quality education. But I put in "quality" here because of the context we live in. We just want to emphasize that. Not just any institution which calls itself a school should be recognized as a school.

MR. SUAREZ. Thank you. So it is clear that the right sought to be promoted and protected under this provision is the right of every citizen to quality education, which is at all levels.

FR. BERNAS. Yes. And, moreover, the right to go to the various levels would depend on the person's talents and capabilities.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Before we vote, I would like to pose an inquiry. Are we voting for an amendment by substitution to Section 1 (a) only?

MR. GASCON. That is correct, Madam President.

MR. RODRIGO. Thank you.

MR. GASCON. Another thing, when we speak of education here, it does not mean only formal education but also informal and nonformal education. This is the first of the basic principles of the right to education in whatever form and level.

MS. ROSARIO BRAID. Madam President, to allay the fears of those who feel that this will involve additional huge investments, I think the concept of quality means using existing resources more creatively. Any additional investment would mean the reorientation of teachers so that they are able to develop more learner-oriented approaches in teaching with the maximum use of community resources. Therefore, we relate education to the relevant needs of the communities, so that when a Grade IV student drops out, he would be able to fit his skills to the needs of the communities' economic and social development programs.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada desires to be recognized.

MS. QUESADA. Just for the record, I would just like to state here that the concept of accessibility also includes the concept of availability and affordability.

MR. RAMA. In addition to what Commissioner Rosario Braid has stated, I would like to tell this honorable Commission why we have this peculiar problem. I made a research on this for a series of articles in the *Philippines Free Press.* The peculiar problem of a low standard of education came after the war. When the war broke out and we set up our educational system, there was a dearth of teachers. So the government was hiring every Pedro, Pablo and Juan, even if he was not qualified to be a teacher.

Second, there was a great period of profiteering at that time so that we have 2,000 fake teachers, many of whom are still in the teaching profession. That is the finding that we made which was confirmed by the Department of Education.

And third, there was a preposterous law passed by Congress soon after the war which gave an additional credit or percentage to anybody who passed or did not pass the examination of teachers on the ground that they were veterans. So the government could not really get the better teachers. If they failed in the examination, say, if they got only 70%, they were given an additional 5% because they were veterans. These are some of the things that created this peculiar problem where we have a very low standard of education. So I hope we maintain the words "quality education."

MR. SUAREZ. I am satisfied with the explanation of the Commissioner. But may I go to another point. Commissioner Bernas uses the phrase "PROTECT AND PROMOTE." This is a little bothersome because it could lead to unnecessary litigations. Let us take the case of a simple Juan de la Cruz going to court compelling, by a *mandamus* action that a certain university should provide quality education. Does the Commissioner not think that under this provision, if we do not delete the phrase "PROTECT AND PROMOTE," we may be swamped with unnecessary litigations, Madam President? Notwithstanding the observation of the Honorable Guingona, there may indeed be some "diploma mills" abounding all over the country. What is the Commissioner's thinking about this, Madam President?

FR. BERNAS. My thinking about that, Madam President, is that I do not think we really need to fear because concretely, for instance, if a student were studying in a school and found out that the teachers were unqualified, the facilities were not as promised and so forth, then he could appeal to this provision. He should have a right to appeal to this.

MR. SUAREZ. Precisely, that student will seek the protection of the State.

FR. BERNAS. Correct.

MR. SUAREZ. He can do this by compelling that university or school to improve the quality of its education. Can he do that?

FR. BERNAS. Yes, or if one wants that school to continue its operation, the complaints could be addressed also to Congress. Usually a school is unable to continue because it needs money. Precisely a school could have a low standard because it does not have the money to pay qualified teachers, to buy good books and so forth. Hence, students could address their complaints to the State also, telling the State: "Look, if you want the school to continue, it is your duty to support it."

MR. SUAREZ. I have been handling a number of cases in behalf of student demonstrators who were demanding quality education in the form of good teachers, good books, academic freedom, improved facilities. Will this statement "The State shall protect and promote the right of all citizens to quality education at all levels," be a license or permission for them to go before our courts and demand the protection which is provided under this provision?

FR. BERNAS. The answer would have to be in the affirmative, with proper explanation. If the school involved is a state school, then I think the State can easily answer that. But if the school involved is a private school, which is precisely in such situation because the State is not allowing a private school to collect the tuition that is necessary to raise its quality, then the private school would have a proper defense. This will awaken the eyes of the State to the fact that, if the private schools are to deliver quality education, then there must be some reasonableness in the regulation of tuition fees.

MR. SUAREZ. So who, in the ultimate analysis, will determine whether a certain school is providing quality education or not? Would it be the courts or the State through its instrumentalities or agencies like the Ministry of Education, Culture and Sports?

FR. BERNAS. Certainly, the State, by its police power, can insure that there are minimal levels of quality education. But there are other ways of insuring quality. Private accrediting associations, for instance, are very effective in raising the quality of education and part of the thing which can be done by the State is to recognize private schools that are already delivering quality education. Hence, we should not just lump them together with everybody else in terms of regulation.

MR. SUAREZ. Under the Commissioner's theory, that assumes that there will be practically a reexamination or review of the quality of the education now being given by these private schools. Is that what the Commission has in mind?

FR. BERNAS. We are entering into the area of accreditation. Certainly, the State has some authority to determine at least minimum levels of quality. But private educators also have the right to require even more.

MR. SUAREZ. Can we agree on the procedural matters to be taken up regarding the matter of providing quality education? I asked so because I would like to prevent the proliferation of suits against the State or the school. Can we put in the record that under this provision, what is contemplated is that a complaining student can address his protest against the State instrumentalities or agencies before going to the courts for seeking refuge under this particular provision?

FR. BERNAS. Under the principles of exhaustion of administrative remedies, yes.

MR. SUAREZ. Thank you.

MR. RAMA. Madam President, the body is now ready to vote on that amendment.

MR. GASCON. The committee has accepted the Bernas amendment.

VOTING

THE PRESIDENT. The committee has accepted the amendment.

As many as are in favor of this proposed Bernas, et al amendment which has been accepted by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 28 votes in favor and 1 against; the amendment is approved.

MR. RAMA. Madam President, may I ask that Commissioner Aquino be recognized.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I would propose an amendment by substitution to the second sentence of Section 1 (b), lines 1 and 2 which will now read: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE."

MR. VILLACORTA. The committee accepts the amendment.

THE PRESIDENT. Is the amendment by substitution for the entire paragraph?

MS. AQUINO. This is only for the second sentence of Section 1 (b), lines 1 and 2.

MR. GASCON. The second sentence reads: "Education shall be compulsory through the elementary level."

MS. AQUINO. Again, the amendment by substitution reads: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE." The intent and reason for this is that, however strong its interest in universal compulsory education, the State's interest is not absolute to the exclusion of all the other interests. It is consistent in jurisprudence that the children are not mere creatures of the State. Those who nurture them and those who direct their destinies have the primary right to develop them for additional obligations.

MR. RODRIGO. Madam President.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. I would like to propound a few questions.

I am really against this provision making elementary education compulsory, but then Commissioner Aquino puts a condition which is about the rights of parents. However, what is the meaning of that? Does it mean that if the parents say, "I do not want my child to go to school," then that child is exempted from the compulsory elementary education?

MS. AQUINO. Yes. For clarification, the provision for compulsory education is already a historical imperative and I suppose we are in agreement on that principle. But the qualification in the clause, "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS," taken in context with the second part of the sentence, only hopes and aspires to set some kind of a moral compulsion for the parents to lead their children to undertake primary education. We do not speak in terms of sanctions or in terms of penalty for a misdemeanor, but we speak in the nature of a moral compulsion.

MR. RODRIGO. In our 1935 and 1973 Constitutions, there is no provision making compulsory elementary education.

MS. AQUINO. Yes, that is true.

MR. GASCON. If the Commissioner will still recall during the period of interpellations, the reason we had included the provision on compulsory elementary education is to stop the retrogression which is occurring at present, wherein our literacy rate is going down, and, second, we feel that if we make elementary education, at least, from the position of Commissioner Aquino, as morally compulsory, this would alleviate the situation where our illiteracy rate is increasing and would avoid the situation where retrogression of those who dropped out of school will no longer occur.

MR. RODRIGO. But if we make it a provision in the Constitution, we do not make it only morally compulsory. It is compulsory by constitutional mandate.

MS. AQUINO. May I add to supplement the position of Commissioner Gascon on the matter that when I say that compulsory education is a historical imperative, it is not only the call of progress but it is also an attempt to arrest the problem of declining literacy which has a chain reaction to the problems of involuntary child labor, child prostitution and the host of other social ills that arise from ignorance. Now, as I have qualified, a constitutional mandate for compulsory elementary education does not necessarily provide for an impetus for sanctions. This has been consistently ruled in jurisprudence in the United States of America, like in the case of *Wisconsin vs. Yoder* and that of *Pierce vs. Society of Sisters in the Holy Name of Jesus.* In fact, compulsory education has been adopted in almost all of the constitutions all over the world except that it would have to yield to the recognition of the primacy of the natural right of the parents, lest it would infringe on the free exercise clause of the First Amendment and the Fourteenth Amendment.

MR. GASCON. In fact, when the Universal Declaration of Human Rights itself spoke of education it states that elementary education shall be compulsory. This is in Article XXVI, which is stated for that very same reason advanced by Commissioner Aquino.

MR. RODRIGO. Yes, but we have to be practical about this. First of all, I know that in the provinces there are many barrios without school buildings. According to Dr. Juanita Guerrero of the Bureau of Elementary Education, the government provides elementary education free of tuition and matriculation fees but it does not give free books or free materials. So what will happen to the children of very poor families, either in Manila or in the provinces who cannot afford to buy books? With this situation, some parents could not send their children to school. They try to encourage them to go but do they penalize them? If there is no penalty, then what is the use of making it compulsory? How can we make it compulsory unless there is a sanction?

MR. GUINGONA. As I mentioned in an earlier discussion, the sense of the committee is that the word "compulsory" is not to be construed or interpreted in its strict sense. As a matter of fact, I made reference to exemptions provided by the government with regard to school attendance, and I mentioned about the accessibility, which may be three kilometers away, or if the children cannot afford. I enumerated all of these the last time, which show that this is subject to exemptions.

MS. AQUINO. Madam President, the intention in the provision is that when there is a constitutional mandate, it should have enough moral suasion to carry with it compulsory effect but without necessarily entailing sanctions or penalties. In fact, it has been ruled out in the host of cases in the United States that to penalize the failure to abide by the rules of compulsory education as a misdemeanor is unconstitutional.

MR. RODRIGO. Madam President, I view this also from my position as chairman of the Committee on Style. Why should we use the word "compulsory" if it is not really compulsory? We cannot compel because as the Commissioner says there is no sanction. So, why do we not use some other words, like "persuade" or "encourage"? I have been raising this point all the time for when the Constitution says "shall provide free high school education," the understanding is that it is a commitment of the government. Then we say, "it shall," although it is not really a commitment.

Here it is compulsory, but there is no sanction. We do not compel, and if the parents do not want to send their children to elementary school, then they do not have to go. Why should we use the word "compulsory"? We might be misleading our people.

MS. AQUINO. I do not share the apprehension of Commissioner Rodrigo. In fact, I think his fear is more apparent than real. The concept of compulsory education subject to the primary right of the parent, has acquired a settled usage in law and in jurisprudence.

MR. RODRIGO. It is not a fear. I am not afraid. It is just that I want to call a spade a spade, and I would like to state that in the 1935 Constitution, we do not have such a provision making elementary education compulsory. Neither do we have it in the 1973 Constitution. Now that we are in an economic crisis, we, all of a sudden, incorporate in our Constitution a provision making elementary education compulsory. We are saying it is compulsory, but it is really not.

That is all I want to express.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I would like all our children to acquire not only primary education, but also elementary, and, if possible, high school. But when we affirm the right of a child, can the exercise of that right be compelled? A person may waive the exercise of his right but he cannot be compelled to exercise that right. If the word "compulsory" carries no penal sanction, not even as a misdemeanor, then said word may appear attractive but it may not have real value.

Is it not enough that the State should provide for free primary or elementary education but should it be made compulsory? To attach any kind of a sanction for non-exercise of a right would be illegal and unconstitutional. That is why I share the view of Commissioner Rodrigo that there are goals we want to achieve, but we have to be careful that the means we will use are not only within the resources of the State but it should also be realistic and practical.

MR. NOLLEDO. Madam President, may I be recognized?

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

That word "compulsory" existed in the 1935 Constitution, but if I remember right, it was compulsory only up to the primary level. Then it was extended up to the elementary level. I remember very well that in the 1971 Constitutional Convention, the use of the word "compulsory" was extended up to Grade 6 or Grade 7 because the government was alarmed by the increase of illiteracy on a certain period of time in our Republic. Considering the basic and national purpose, a transcendental purpose of promoting literacy in the country, I believe that the right cannot be waived. While it is true that a minor cannot waive, still a parent can waive in the child's favor. Thus, the imperative demand for increasing literacy shall result in the "non-waivability" of the right.

So, I believe that we have to retain the word "compulsory" there. The fact that we put "compulsory" and we do not punish does not necessarily mean that we preclude Congress from providing for a sanction whether civil or criminal. Perhaps, the criminal sanction may take the form of a fine or forfeiture of certain privileges in a reasonable manner. Considering that our literacy percentage is not too high as compared with other civilized countries of the world, the word "compulsory" shall exist. The fact that there is no sanction does not mean that the word "compulsory" is out of place because it opens the avenue for Congress to provide for a sanction if the time will come that the parents will not send their children because they labor under the impression that, at any rate, there will be no sanction at all.

I hate to say this. I am not unFilipino. This provision on compulsory education is being geared towards the mentality of most Filipinos. Unfortunately, I say this because if we put it there as optional then we will be promoting illiteracy in the country because the path of least resistance may be followed by the parents. Since there is no word "compulsory," and there will be no sanction at all in the future, then they will not send their children to school anymore. If this event happens and the word "compulsory" exists in the Constitution, then Congress can pass a law in order to arrest the alarming proportion on the part of parents not sending their children to school in order to promote literacy in this Republic.

Thank you, Madam President.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Did Commissioner Nolledo say that under the 1935 Constitution elementary education is compulsory?

MR. NOLLEDO. That is what I said; correct me if I am wrong.

MR. RODRIGO. There is no such provision. May I read Article 14, Section 5:

> All educational institutions shall be under the supervision of and subject to regulations by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary education . . .

It is not compulsory.

MR. NOLLEDO. If the Commissioner would make a further research, that was interpreted as compulsory because, if my memory serves me right, there was a commonwealth act implementing it.

MR. RODRIGO. Then it is not a constitutional provision. I have read Section 5; I would like to ask Commissioner Nolledo if there is any other section.

MR. NOLLEDO. As a law professor, my interpretation is that it is, in effect, compulsory. It was implemented in that sense by the National Assembly.

MR. RODRIGO. So it is not a provision of the 1935 Constitution. It is an interpretation by Professor Nolledo.

MR. NOLLEDO. It says there, "shall provide at least . . ."

MR. RODRIGO. Let us make it clear.

MR. NOLLEDO. That was also the interpretation of the Committee on Education in the 1971 Constitutional Convention where I appeared because the wordings are not clear enough. But it says there, "shall provide at least primary instruction." So, it was compulsory on the part of the government and the implementing statute said that the children must acquire that knowledge in order to promote literacy. That is my interpretation, but if the Commissioner disagrees, that is his right to do so.

THE PRESIDENT. So, let us limit ourselves to the question that is before us. Shall it be compulsory or not?

MR. BENNAGEN. Madam President.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

May we address a few questions to Commissioner Nolledo?

MR. NOLLEDO. Gladly.

MR. SUAREZ. Thank you.

I like Commissioner Nolledo's gentle interpretation of the word "compulsory" as now proposed. According to Commissioner Monsod it is really a soft mandate in the sense that although it is compulsory in character there is no sanction or penalty attached to it. Are we clear in that regard?

MR. NOLLEDO. In the Constitution there is no penalty attached to it, but even if there is no penalty attached to it, we still open an avenue to the Congress to provide for a penalty in the event that circumstances should justify the imposition of a penalty.

MS. AQUINO. Madam President, may I clarify something.

THE PRESIDENT. The Commissioner may proceed.

MS. AQUINO. When we say that there are no sanctions constitutionally provided for, we are very conscious of jurisprudence that strikes down as unconstitutional any criminal sanction to failure to comply with compulsory education. However, as articulated by Commissioner Nolledo, it does not preclude Congress from providing for statutory provision of reasonable sanctions. It may vary modalities of sanction and penalties.

MR. SUAREZ. Thank you.

In other words, we leave it up to Congress to determine later on the nature of the penalties or sanctions, if any, that may be provided by way of implementing this mandate of our Constitution.

MR. NOLLEDO. The Commissioner is right.

MS. AQUINO. Conscious, however, of the constitutional limitations in the infringement of free expression clause.

MR. SUAREZ. Yes, subject to that limitation, I assume that to be true. So, in other words, since we do not have those laws, like the truancy law in the United States, that may be provided by Congress, therefore, this is only in the pursuit of that soft mandate or gentle interpretation that we have been advocating. Is my understanding correct?

MR. NOLLEDO. Yes.

MR. SUAREZ. What is bothering a number of the Commissioners is that when we speak of compulsory education on the elementary level, it might connote something like physical arrest and put them there in school, notwithstanding the fact that the student concerned may be needed to support the family, notwithstanding the fact that there may be no schools available on the elementary level in most countrysides. The Commissioner does not have those in mind, does he?

MR. NOLLEDO. No, because if the Commissioner will notice in my remarks, I said that the penalties should be reasonable enough.

MR. SUAREZ. The Commissioner wants that this constitutional mandate should be applied in a very humane way.

MR. NOLLEDO. I agree.

MR. SUAREZ. Thank you.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. Madam President, in line with the earlier principle articulated that we should not write a Constitution in a cultural and economic vacuum, let me just share with the body some insights that I have derived in studying the economics of education. In the Philippines, true to our Asian heritage, parents have already an inner compulsion to send their children to school. We do not have to compel parents. That is anthropologically and culturally established that as part of the Asian region, parents have already an inner compulsion to send their children to school. The only reason why literacy has dropped in a very alarming way in the last few years is economic: Either they are needed by their parents to help out in the farm or their parents do not have the money, not necessarily for tuition, but for transportation and all the other items that have been enumerated. So I think it would be a wrong diagnosis to infer that parents are not sending their children to school because of noneconomic reasons. Since the word "compulsory" has already led us to a lot of byzantine arguments, I would suggest that we do not use it if we do not mean compulsory and already rely on the inner compulsion that Filipino parents have to send their children to school if the State and other agencies will provide the economic wherewithals.

Thank you very much.

MR. VILLACORTA. Madam President.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. I yield to Commissioner Bennagen.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I have been raising my hand earlier.

I speak in support of the observation of Commissioner Villegas. All empirical studies on Filipino values point to education as one of the leading values that are upheld by Filipino families because they look at education as a vehicle for social mobility although this is not exactly supported by data. We are saying, therefore, that outside of the legal compulsion, there is a psychological compulsion amongst parents to send their children to school limited only by the inadequacy of the State and sometimes the family itself to meet this high value that is placed on education as a vehicle for upward mobility.

MR. VILLACORTA. Madam President, with respect to the issue of compulsory education, we just would like to mention that in the International Covenant on Economic, Social and Cultural Rights of which the Philippines is a signatory, paragraphs 1 and 2 of Article XIII state:

> The States Parties to the present Covenant recognize the right of everyone to education.
>
> The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all.

Madam President, Article 26, Section 1 of the Universal Declaration of Human Rights states:

> Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.

We thought that we should just add these citations for the record.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. I remember my grandparents telling me in the early 1900s that the policemen were rounding up the children and compelling the parents to send them to school. But those were in the early days and those were the times when the worth of education was not well appreciated by us. But we are now living in a different stage of educational level and we have a deeper appreciation of the value of education. I do agree with the observation propounded by Commissioner Villegas a while ago, that indeed this is now the feeling preponderant in our society in which we do not need to be compelled. We would like to have education. So I am also against the use of the word "compulsory" here.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. My point of information is in connection with the observations of Commissioners Villegas and Tingson. There is in the Revised Penal Code a felony known as "indifference of parents" which penalizes the parents who fail to afford the education of their children which their position or social status permits. That provision has been there since January 1, 1932, when the Revised Penal Code took effect. I am not aware that that provision has ever been invoked nor has there ever been a prosecution thereunder, for the simple reason that we do not have to compel the parents to send their children to school. If they fail to do so, it is because of circumstances beyond their control.

Thank you.

MR. GASCON. We would like to submit the proposal of Commissioner Aquino to a vote. May we ask Commissioner Aquino to restate her proposed amendment.

At this juncture, the President relinquished the Chair to the Honorable Adolfo S. Azcuna.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Aquino is recognized to restate her proposal.

MS. AQUINO. Mr. Presiding Officer, lines 1 and 2 on page 2, as amended, will now read: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE."

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Monsod is recognized.

MR. MONSOD. I thought we agreed earlier that the concept of the primacy of the parents' right in the education of children would be transposed to the Article on the Declaration of Principles. Would this not be a redundancy if we are going to repeat it here?

MS. AQUINO. We have not yet approved the Article on the Declaration of Principles. My perception is that in terms of balancing concepts, this is where the natural right of the parents should be balanced against the State's interest. This provision should be properly articulated.

MR. MONSOD. If such provision would be incorporated in the Article on the Declaration of Principles, would we then go back and eliminate it here? Or is there no harm putting this provision here as well?

MS. AQUINO. There is no harm or danger.

MR. MONSOD. There was a manifestation made earlier by the committee that we go section by section according to the committee's draft. This is one instance where it might be good to look at its totality and see that in the process of amending we already start restructuring the entire article. The way we are going about it is that we can really put the amendment of Commissioner Aquino in one phrase if we adopt restructuring where we say "The State shall establish and maintain . . ." We can put her amendment in one phrase rather than put it in the context of an entire paragraph.

This is where we believe that we cannot really amend without considering the sequence and the consolidation of the sections.

THE PRESIDING OFFICER (Mr. Azcuna). What does the committee say?

MR. VILLACORTA. Mr. Presiding Officer, the committee just wants to be clear about the proposal of Commissioner Monsod. Is the Commissioner referring to his proposed amendment as well as those of Commissioners Davide and Maambong?

MR. MONSOD. Yes.

MR. VILLACORTA. The committee in its last caucus – the Commissioner was present there – decided that we go section by section based on the draft that is now in the possession of all the Commissioners because otherwise it will be confusing if we go by the proposed restructuring.

MR. MONSOD. Yes, but my point is that I do not entirely agree that if we go paragraph by paragraph we can go back and then decide the sequencing later. It will not make sense when we sequence them later since the structure and even the wordings would be different.

As I understand it, one of our resource persons, Deputy Minister Ordoñez, has also suggested certain consolidations which would put the article in a very organized fashion. I really cannot understand why we have to go section by section according to the original if there are ways by which we can consolidate, cut down and put ideas in their proper context.

MR. VILLACORTA. The systems and procedures that we are following now are consistent with the systems and procedures that were followed by the other committees that presented their reports. I do not see any reason we should deviate from this procedure that we have agreed upon.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Azcuna). The session is suspended for a few minutes to thresh this matter out.

It was 11:53 a.m.

RESUMPTION OF SESSION

At 12:03 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA. Mr. Presiding Officer, I move that we suspend the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection? *(Silence)* The Chair hears none; the session is suspended up to two-thirty this afternoon.

It was 12:03 p.m.

RESUMPTION OF SESSION

At 2:58 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

MR. ROMULO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Acting Floor Leader is recognized.

MR. ROMULO. I ask that Commissioner Aquino be recognized.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Aquino is recognized.

MS. AQUINO. Mr. Presiding Officer, the discussions this morning have been exhaustive on the proposal so I suggest that we submit it to a vote. The amendment would now read: "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE." This would belong to lines 1 and 2, second paragraph of Section 1 (b) on page 2.

THE PRESIDING OFFICER (Mr. Azcuna). We will now vote on the proposed amendment.

MR. GASCON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Gascon is recognized.

MR. GASCON. Can we ask Commissioner Aquino to repeat her amendment for clarity since we will be voting on it.

THE PRESIDING OFFICER (Mr. Azcuna). The Commissioner will please read the proposed amendment again.

MS. AQUINO. "WITHOUT LIMITING THE NATURAL RIGHT OF PARENTS TO REAR THEIR CHILDREN, ELEMENTARY EDUCATION IS COMPULSORY FOR ALL CHILDREN OF SCHOOL AGE."

VOTING

THE PRESIDING OFFICER (Mr. Azcuna). We will now proceed to vote on the proposed amendment of Commissioner Aquino.

As many as are in favor of the proposed amendment as read, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 15 votes in favor, 13 against and 1 abstention; the amendment is approved.

The Acting Floor Leader is recognized.

MR. ROMULO. Mr. Presiding Officer, I ask that Commissioner Rodrigo be recognized.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rodrigo is recognized.

MR. RODRIGO. My amendment is on page 1, line 16. I propose to insert "ENDEAVOR TO" between the words "shall" and "establish." So, that paragraph will read: "The State shall ENDEAVOR TO establish and maintain a system of free public education at the elementary and the secondary levels . . ."

THE PRESIDING OFFICER (Mr. Azcuna). What does the committee say?

MR. VILLACORTA. We are still conferring, Mr. Presiding Officer.

MR. GASCON. What does the Commissioner mean by the words "ENDEAVOR TO"?

MR. RODRIGO. This is not the first time this phrase is used. In previous articles, when we know that the government is not financially capable of accomplishing what it promises to do, we decided that, instead of the word "shall" which connotes a definite commitment, we use the words "endeavor to." May I explain a little further. One of the criticisms against the so-called "politicians" is that they make promises which they cannot fulfill. Now, this is a Constitution we are framing and this is the basic fundamental law of the land. This is a very serious matter and we should not promise anything here which we cannot comply with. But as it is, we are making a categorical statement. Unless we change the word "shall" to "ENDEAVOR TO," this Constitution will make a categorical commitment on the part of the government to establish and maintain free elementary and high school education. Even our elementary education now, Mr. Presiding Officer, is not really free. It is free of tuition, yes, but then there is a lack of buildings; and, not only that, textbooks are not free. Much less is high school education. High schools are not even free of tuition and there will be an absolute lack of buildings if tuition were to be made free.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of Commissioner Ople?

MR. OPLE. Will Commissioner Rodrigo yield to a question or two?

THE PRESIDING OFFICER (Mr. Azcuna). The Commissioner may yield, if he so desires.

MR. RODRIGO. Certainly.

MR. OPLE. Thank you very much.

The way the amendment of the Commissioner is formulated now, since elementary education is guaranteed to be free, when he places his amendment under the limiting term "ENDEAVOR TO," will this not represent a reduction of benefits already being enjoyed by the families of the poor who send their children to free elementary schools because the context in which this will now be placed will actually release the State from the guarantees of the 1935 and 1973 Constitutions for free primary and elementary education, respectively?

MR. RODRIGO. I am willing to accept an amendment to my amendment to make a categorical statement, like in the 1973 Constitution which says that elementary education shall be free. But then the 1973 Constitution itself says that in areas where finances permit, high school education shall be free. However, I would like to state also that we consulted Dr. Juanita Guerrero of the Bureau of Elementary Education only a few days ago. She said that public elementary education now, which according to the 1973 Constitution shall be free, is not really free. She said that what is free is the tuition or matriculation fee, but the books and other school supplies are not free.

As I said, I am willing to admit an amendment to my amendment.

MR. OPLE. Thank you, Commissioner Rodrigo; I also thank the Presiding Officer.

I want to complete this interpellation with just another question.

To what does the Commissioner attribute his doubt concerning the feasibility at this time of free public education at the elementary and the secondary levels? Is this a question of his perception of very scarce resources?

MR. RODRIGO. It is known to everybody that our government is in one of its worst financial crises at present and for us to give a categorical promise now would just disappoint our people.

MR. OPLE. I just happen to recall very recently that P28 billion was ordered released by the President of the Philippines as new equity infusion for several government financial institutions, mainly the Philippine National Bank and the Development Bank of the Philippines. If my recollection of the committee's figure is correct, the amount of P28 billion of fresh equity intended to prevent the two major banks from collapsing would be thrice the amount estimated to be required to fund free secondary education. I think the government equity to such failing government corporations will be far in excess of P28 billion.

The point of these inquiries to determine Commissioner Rodrigo's doubts based on his perception of very scarce financial resources for the government might actually be due to skewed resource allocations rather than to sheer unavailability of funds to sustain free elementary and public education. In this connection, may I also recall the magnificent survey of South Asia in the book entitled *Asian Drama* by Gunnar Myrdal, in which countries like Sri Lanka and Malaysia were ranked far above the Philippines in terms of social well-being, although in Sri Lanka the per capita income is less than one-half the per capita income of the Philippines. The fundamental conclusion out of this three-volume work of Gunnar Myrdal is that we should allocate our scarce resources to favor the general well-being and the quality of the population, as shown in Sri Lanka, a poor country, but both elementary and secondary public education are given free by the government. Then, in spite of a low gross national product, the sum of the net economic welfare is higher. And so, I was wondering whether if the skewed resource allocation policies of the government could be corrected with less equity for failing banks and more funding for education to afford free public schools, in addition to the elementary level. Perhaps this can be rejuvenating for the country, both socially and economically.

MR. RODRIGO. Mr. Presiding Officer.

MR. OPLE. Will Commissioner Rodrigo comment on that?

MR. REGALADO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Regalado is recognized.

MR. RODRIGO. The Commissioner was asking me a question. May I be given a chance to answer?

THE PRESIDING OFFICER (Mr. Azcuna). The Chair stands corrected, and I would like to ask the indulgence of Commissioner Regalado that he be recognized after Commissioner Ople's question is answered.

MR. REGALADO. I will wait, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rodrigo is recognized.

MR. RODRIGO. Mr. Presiding Officer, I want to make my position clear. I do not say that I am against free high school education. I wish we could provide free high school education. As a matter of fact, we should try our best to have free high school education. What I am against is making a categorical promise to give free high school education at this stage, considering the dire finances of the country. We inherited this financial situation from the past administration.

Regarding banks, we are faced with a situation where we either save the banks or they will sink. With the sinking of these banks, many will sink with them. This is a problem that already faces us. I am not saying that the money should be given to those banks to save them from sinking and collapsing. Maybe that money should have been used for education. If that money is sufficient, then let us give free high school education. But are we sure we really can afford it? I doubt it. That is why I say, let us not make a firm promise. Let us just say the State will "endeavor," will try its best.

MR. OPLE. Thank you, Mr. Presiding Officer; that is all I want to say.

MR. REGALADO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Regalado is recognized.

MR. REGALADO. Commissioner Rodrigo mentioned, among other things, the question of finances. In connection with his observation on finances and for the information of the committee and also of the Commission, I have here a copy of a letter from the executive director of the National Census and Statistics Office showing that we also have to consider, incidentally, the matter of the school population, not only the finances.

In school year 1972 to 1973, there were 6,667,644 students in the elementary level in government schools. Based on the 78 percent completed survey, there were 8,210,570 students enrolled in government elementary schools in the school year 1983 to 1984. In the secondary level, for school year 1972 to 1973, enrolled in government high schools were only 863,326; but for school year 1984 to 1985, there were 1,957,444 students and again this is only based on 78 percent completed survey. It would be safe to say that for school year 1984 to 1985, there must have been almost 2,500,000 students enrolled in government public high schools and, in the elementary level, there must have been about 9,000,000. Since this is only 78 percent complete, in the elementary level, there were 8,269,825 students enrolled last school year. So, that shows the ever increasing number of the school population both in the elementary level and the secondary level.

And if we throw it back a little further and start with school year 1954-1955 – since we are projecting this not only for today or for tomorrow – 30 years ago the enrolment in the elementary government schools was only 3,305,103 as compared with last year's enrolment of 8,269,825. In the secondary level in government schools, there were only 187,373 high school students 30 years ago. Yet last school year there were 1,957,444. As I have said, safely, there would be 2,500,000 students in high school because this report of last year is only 78 percent complete. So, we not only have to balance our finances but we have to consider the ever increasing population. And the question is, if we commit ourselves firmly to granting not only free elementary education but also secondary education, are we really in a position to comply with our commitment? Are we not engaging in self-delusion or in deluding the public into believing that the government really can give them this free secondary education? I do not think there is any Commissioner here who is against giving free secondary education. But as between the desirable and the attainable, as between what is affordable and what is an obsession, perhaps, on our part we have to strike a happy balance. As we have often heard it said here, we might be raising false hopes; we might be inviting great expectations. That is why I agree with Commissioner Rodrigo to reformulate this in a more modest and a more intellectually honest presentation as it was in the 1973 Constitution, insofar at least as the elementary education is concerned. It is not really very expensive. As far as the expense per capita for the elementary is concerned, perhaps, we can promise free education. But for the secondary level, where the cost is a little more expensive not only in the matter of supplies but also of textbooks, let us go to that 1973 formulation that in areas where our finances permit, then the government shall endeavor to give free secondary education. But in the matter of the elementary level, I think it will be affordable.

We know, of course, that in the elementary grades, the cost of education is not really very high. I suppose this time we can make a firm commitment. I understand that the statistics from the MECS as well as the National Census and Statistics Office show that dropouts usually start at about the fourth grade. At least, they shall have the benefit of compulsory and free elementary education. But in the high school level, let us be a little more reasonably enlightened on what we will expect within the next 10 or 20 years.

Thank you.

MR. VILLACORTA. Mr. Presiding Officer.

MR. SARMIENTO. Mr. Presiding Officer.

MR. VILLACORTA. May the committee react to that?

MR. SARMIENTO. Before the committee reacts, may I briefly speak in favor of Section 1 (a)?

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Sarmiento is recognized.

MR. SARMIENTO. To me, this section, as drafted by the committee, will not create a revolution of rising expectations nor will it foster a spirit of self-delusion.

If we adopt the Rodrigo amendment, we will emasculate Section 1 (b). The spirit and intent of this section which, to me, is wise will be weakened. It is a question of reordering our priorities.

My humble submission is that we have no scarce resources; it is a question of prioritizing our resources. A study was conducted that for every peso given to education, several more pesos are given to the military. And even former Minister of Education Laya himself, in a statement he made in 1985, admitted that we have this problem not because of scarce resources but because of governmental priorities, which shows that if we reorder our priorities and give more emphasis to education and not to the military budget or to other concerns of the government, the government can definitely handle the situation. And if we will not require the State to adopt this policy, we will be aggravating our educational situation. For instance, the Ministry of Education, Culture and Sports said that of the 100 schoolchildren who started in Grade I, 70 finished Grade IV or primary education. Of the 70, only 62 proceeded to Grade V and only 56 finished Grade VI. In turn, of the 56 grade school graduates, only 43 managed to start with first year high school and barely 33 of them reached fourth year and finished secondary school. Of the 33 high school graduates, only 30 actually started with first year in college. Those who reached second year college are further reduced to 21; and finally, only a measly 11 of them managed to graduate from college.

So, I humbly submit, Mr. Presiding Officer, that if we adopt this amendment, we compound our educational crisis.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Rodrigo is recognized.

MR. RODRIGO. Heeding the suggestion of Commissioner Ople, I would like to amend my proposed amendment and restate the provision of the 1973 Constitution: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND, IN AREAS WHERE FINANCES PERMIT, ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

That is the provision in the 1973 Constitution and that remedies the first objection of Commissioner Ople that I might be retreating from the 1973 provision, which makes elementary education free. I would like to state that when I was in the Senate, from 1955 to 1967, education always had the biggest part of the budget pie. But even then, under the 1935 Constitution, the government could afford to give free education only up to the primary grades. In the 1973 Constitution, when finances were better, the government could only afford to give free education up to the elementary level and only free tuition at that. Free tuition is not synonymous with free education because free education means even the textbooks can be loaned for free.

Mr. Presiding Officer, it is true that we can save from some of the misspendings. But the priority, I think, is also on education. Before spending the money, whatever money we can get for free high school education, we should first increase the salaries of our teachers from the primary up to the high school level because our teachers are very, very poorly paid. Even the facilities of schools should be improved. I think that is also a priority.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Davide is recognized.

MR. DAVIDE. Would the distinguished proponent yield to some questions on the proposed amendment?

MR. RODRIGO. Gladly.

MR. DAVIDE. If we approve the modified proposal, does it mean, therefore, that the government can choose the areas where there will be a free public high school?

MR. RODRIGO. Where finances permit.

MR. DAVIDE. How would the proponent determine the availability of finances for a particular or specific area?

MR. RODRIGO. The financing for high school now is shared by the national government with the city, provincial or municipal government and even the barangay. So, there are places where the local governments can help in giving free high school education. I think that was an issue in the City of Manila recently. It used to be free under Mayor Lacson. Under Mayor Villegas, tuition fees were restored and I do not know if at present they were able to restore in the City of Manila free high school education.

MR. DAVIDE. In other words, the local governmental units may, by themselves, provide for a free high school education?

MR. RODRIGO. Yes.

MR. DAVIDE. But is it the Commissioner's position that the national government may assist these local governmental units if in that particular area the national government can have available financial assistance or sources?

MR. RODRIGO. Yes.

MR. DAVIDE. Would this not amount to undue discrimination and class legislation because the national government will now assist those high schools which are maintained by the local governments, but it may not at all open any high school in other areas where the local governments cannot provide a free high school? So, in areas where the local government does not attend to the needs of the education of the youth, necessarily the national government may not open a high school. Where lies now the right of every citizen to free education or to quality education?

MR. RODRIGO. I am not acquainted with all the details in financing the public high schools; however, let me read what Dr. Antonio Dumlao of the Bureau of Secondary Education has to say:

> Tuition and matriculation fees are paid by all public high school students. Subsidy comes from the national government and the local government through the barangay, the municipality, cities and provinces.

There is the possibility that this might lead to discrimination but that is up to the implementing powers. I think they can devise a means to avoid discrimination.

MR. DAVIDE. I understand that the practice now is that barangay high schools receive national aid to the extent of about 70 percent of the salaries for teachers and these are graduated depending on the class of the municipality. There is national assistance to high schools maintained by the city government. But if we follow the Gentleman's argument, it would necessarily mean that the national government can only give assistance to high schools, if these high schools are opened by the local governmental units. And so, in areas where there are no high schools maintained or operated or supported by the local governmental units, it would not be mandatory upon the national government to open any high school, and, therefore, deprive the youths in that particular area of high school education simply because the local government has not provided for a high school there.

MR. RODRIGO. I do not know how it is implemented. As I said, however, this is a provision in the 1973 Constitution which has been enforced since 1973 up to recently – for 13 years already – and I have not heard of any complaint about discrimination. Has the Commissioner heard of any?

MR. DAVIDE. Frankly, I have not heard of any discrimination because there were no complaints so far, especially in the rural areas. They have no opportunity to make the complaint. It is a question of life and death in the rural areas; they cannot really ask for something more. But my point is, it is not really expensive to maintain high schools even if we provide free public high schools and even if we maintain the number of high schools all over the country and make them free now, meaning to say, we do not collect matriculation and tuition fees from the students. I believe it is just a question of prioritizing. Commissioner Sarmiento was correct. If we only reduce the budget for defense even to the extent only of about 5 percent and if we now proceed with the merger and liquidation of government corporations, we will have a lot of savings and this could be used to fund the high schools. Probably, if we even abolish the Senate, we can have additional savings for high school education.

So, the point is, I really do not see why the government cannot maintain a free high school education. Even if we only maintain one high school in every municipality, I think the people will be satisfied with that. There are now means of transportation from the rural areas, from the farms to the poblacion, and it is easy for the national government to maintain free high schools – at least one in every municipality.

MR. RODRIGO. Yes, I am in favor of that but the only issue is whether we should mandate it in the Constitution. Should we make a definite commitment to that effect in the Constitution? Let us remember that with this amendment of mine, then it will be up to Congress. Let us not forget that Congress will be composed of Senators – let us not please abolish the Senate; we already approved it – elected nationwide and by Congressmen who are elected by the people in their respective districts. And I think they will be very much interested in education as we are, even more than we are. We are appointive officials. And so, let us leave it to them and they are the ones who will know just what the finances are. They will be in a better position than we to know. Can we afford this? So, we have the same purpose. All I am saying is, why make a definite commitment on something which, in all probability, we will not be able to comply with.

MR. GASCON. Before the committee presents its position, I would like to make a reaction to the amendment to the Gentleman's own amendment. If the phrase "WHERE FINANCES PERMIT" were to be retained, those who have the responsibility of disbursing funds for educational institutions would always have a constitutional excuse. It is this avoidance of public duty as protected by the Constitution that we disagree with. So, we cannot accept the amendment.

MR. RODRIGO. Suppose we change "WHERE FINANCES PERMIT" to "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL ENDEAVOR TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Bacani is recognized.

MR. RODRIGO. I would like to ask the committee because if its objection is to the phrase "WHERE FINANCES PERMIT," then let us change that to "AND SHALL ENDEAVOR" or "SHALL STRIVE ITS UTMOST TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION." It is just that when we promise something, let us be sure that we can comply with it. I think that with this amendment, then we leave it to Congress, and Congress will be in a better position.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of the Honorable Bacani first?

BISHOP BACANI. I was going to suggest an amendment to the amendment which may skirt the issue and at the same time be satisfying to all. May I suggest this amendment that was presented by Commissioner Nieva and myself?

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

BISHOP BACANI. "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION." I think we are all agreed on that. "AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS AND AT THE TERTIARY LEVEL FOR THOSE QUALIFIED." May I explain just briefly why I suggest this particular formulation?

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

BISHOP BACANI. Here we say that "WE SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL " not only education at the elementary level but also at the high school level. At the same time, we do not specify necessarily that this will have to come in the form of free public high schools. I am sorry to say that, by and large, the record of public high schools, that is, the barangay high schools, that we had in the past has not been a very happy one. I think the standard of education in those barangay high schools leaves much to be desired.

What this amendment tries to point out is the giving to parents their right to choose; and hence, the State can choose other means to render available educational service at the elementary and high school levels and not simply by establishing and maintaining public elementary and high schools. It was pointed out that the service contracts before have been less costly to the government and apparently serves the purpose better.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Rodrigo is recognized.

MR. RODRIGO. I accept the amendment to my amendment, except the repetition of the word "elementary."

BISHOP BACANI. Yes, the reason there is the repetition of the word "elementary" is this.

MR. RODRIGO. Will Commissioner Bacani please repeat it?

BISHOP BACANI. Yes. It says: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS."

MR. RODRIGO. Why is that there again?

BISHOP BACANI. The reason for this is that the State may also adopt measures, perhaps not immediately but in the future, by which pupils will be helped to do elementary schooling not necessarily again by making them enter public elementary high schools but by another way.

MR. VILLACORTA. Mr. Presiding Officer, may the committee react to all these amendments?

THE PRESIDING OFFICER (Mr. Azcuna). Just a moment. The Chair would like to clarify the situation now. The proponent, the Honorable Rodrigo, has accepted only a portion of the amendment to the amendment, so that there is no repetition of the word "elementary." Is that correct?

MR. RODRIGO. Yes. Can we not eliminate that word in the last part of the sentence?

BISHOP BACANI. Yes. The reason for the second word "elementary" is this: The State may provide for another way of making education available to elementary school pupils.

MR. RODRIGO. Maybe private high schools, is that it?

BISHOP BACANI. Maybe private elementary schools.

MR. RODRIGO. Then I accept the amendment.

THE PRESIDING OFFICER (Mr. Azcuna). The amendment to the amendment is accepted.

May we know the reaction of the committee?

MR. VILLACORTA. Mr. Presiding Officer, the two amendments are based on two assumptions: first, that the burgeoning student population will make it impossible to meet the demands for free public secondary education; and second, the government does not have the funds and the resources to finance free public secondary education. Are we right, Mr. Presiding Officer?

BISHOP BACANI. No, Mr. Presiding Officer, if I may reply.

Those are not my assumptions. The very first assumption is that the parents should be helped and enabled to put into effect a choice not only for education but where the education will be received because it has been pointed out, and nobody doubted it, that it is the parents who have a primary right to the education of the children. If they have the primary right, they have the primary right to choose. And if the State can help them to choose, then they should be helped in that choice.

MR. VILLACORTA. Then Commissioner Bacani's amendment is addressed to another issue. But let me just first elaborate on these two assumptions, which I think are the bases of the fears of many, with respect to our proposal for free public education.

First, on the matter of whether the burgeoning student population will make it difficult for the government to meet the demands for free public secondary education, I think that Commissioners Regalado and Sarmiento had pointed out the dropout rate at the elementary level. In other words, it is clear that there are not that many who would be able to avail even of free high school education assuming that it is assured by this Constitution because if it is true that they dropped out of Grade IV, then that means that a lot of our children cannot even avail of the free public elementary education which is presently guaranteed. So I think the student population problem is real in that sense.

Secondly, we agree with Commissioners Davide and Sarmiento that it is a question of priority. The Honorable Rodrigo mentioned the fact that up to 1967, Congress had given priority to education, but the ACUP Report of 1983 noted that while in the 1950's and the 1960's education received an increase in share of total government expenditure, in the 1970's up to 1980, the average share of the education sector decreased to 2.35 percent of the GNP and to only 17.47 percent of the total government expenditure, or an almost 50-percent slash in an 11-year period. About 85 percent to 90 percent of the current operating expenditures are spent on salaries of teachers and other school personnel with only 10 percent to 15 percent earmarked for other resources such as textbooks, learning aids, instructional materials, teachers' upgrading and others.

Commissioner Rodrigo was asking about the facts concerning the financing of secondary education if it would be made free. According to the study done for us by Dr. Arcelo, if we assume that the secondary level enrolment will increase from the present 3.3 million to 9.4 million, with 57.4 percent share of the public secondary schools, enrolment in the public sector will reach 5.7 million. The incremental enrolment will be 3.8 million,which is 5.7 million less than the present enrolment in the public sector of 1.9 million. And he said that the total cost of secondary education will be P6.9 billion broken down as follows: operating cost — P4.576 billion; capital outlay cost - P2.376 billion. The amount of P6.952 billion represents only a 6-percent increase over the present budget of P11 million. So, it is only a 6-percent increase. It is not that scary with respect to the additional appropriation that the national government will have to give to guarantee free public secondary education.

We would also like to point out that in addition to Sri Lanka, there are many poor countries, even poorer than we, that guarantee free education at all levels, namely: Paraguay, Uruguay, Venezuela, Haiti, Panama and Thailand. And this free public education at all levels is guaranteed in their constitutions.

We were also told by Deputy Minister Victor Ordoñez, who was with us in our caucus yesterday, that he was informed by Minister Lourdes Quisumbing that she was misquoted in a *Philippine Tribune* news report that was read to us by the Honorable Padilla that she was really all out for free public secondary education. However, she says there must be a provision for a transition period to allow this to happen. In other words, it should not be implementable within the next school year or two school years from now. And for that purpose, the committee decided yesterday to propose to the Committee on Transitory Provisions to provide for this allowance. With the help of our fellow Commissioners, we can come up with the appropriate resolution that will embody this wish. We in the committee would like to stress that the reason we would like the government to give priority to public education, both elementary and secondary, and to guarantee such education for free, is that we would like to enhance the quality of literacy. It is not enough for our people to be literate. We also have to invest on human capital as well which is the most valuable capital of any nation. With this valuable investment on human capital, we would be increasing our chances for both human and social development.

I think Commissioners Guingona and Gascon would like to add something.

MR. GASCON. I would like to ask Bishop Bacani a question. From my point of view, I think what Bishop Bacani is saying in his proposal is another issue which we can tackle. Aside from providing for a system of free public elementary education, when it comes to secondary education and even perhaps elementary education, instead of creating public high schools, the State could subsidize students to enter private high schools. Is that correct? So that their choice is not limited to entering public high schools only where they can have free public education but they can also have free private education because the students will be subsidized as they enter private schools. Is that correct?

BISHOP BACANI. Yes, that is one of the main features of the amendment. The first one is precisely to answer such a concern of Commissioner Villacorta that Minister Quisumbing said it may not be implemented this year or next year, and that is why we say: "AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL." In other words, it is not being told right away – "it shall maintain free elementary and public high school" – but it shall provide measures to move towards that.

MR. GASCON. However, Deputy Minister Ordoñez told us that Minister Quisumbing herself feels that a statement calling for the establishment and maintenance of free public secondary schools would be very helpful towards that long-term goal of the ministry. Even she herself believes that we can. The issue that is being presented actually is another issue which we have to discuss separately from the issue of providing for a system of free public secondary education as well because that is supplemental. So, my perspective is that perhaps we could separate the two issues to make this provision clearer.

MS. ROSARIO BRAID. Mr. Presiding Officer, may I ask a clarificatory question? I quite agree that this is a separate issue and that perhaps one implication of the proposal is that the State may provide subsidy to parents who then can select schools of their own choice.

BISHOP BACANI. Yes. I am not in agreement completely with the committee's wording that is why actually my amendment to Commissioner Rodrigo's amendment is an amendment to the committee's wordings.

MS. ROSARIO BRAID. We would like to encourage Commissioner Bacani to come up with a separate proposal on this issue. Perhaps another implication of the proposal is that, therefore, we encourage more service contracts since they are really less expensive to the State.

I have here, for instance, figures which indicate that the per student cost in the private school is P276 per year as against P593.17 in public schools. So, it is actually cheaper for the State to enter into service contracts with private schools.

BISHOP BACANI. Mr. Presiding Officer, precisely it is here that an opening is being made for that.

MR. GASCON. Yes.

MS. ROSARIO BRAID. But it is a different issue.

MR. GASCON. This is a different issue because, first, the assumption is that there are enough private schools for the parents to be given their choices whereby the State will support them in providing their children the opportunity of entering private schools. But, in reality, over and above the State's probability of supporting parents to send their children to private schools by a direct subsidy, there is still the need for the creation or establishment of public high schools in places where there are no public high schools or even private high schools because that choice is broader. We are actually saying that over and above providing public high school, it should also support students to enter private high school. We have no disagreement with that, but the problem is the assumption that the Commissioner is making – that there are enough private high schools where all the students can go. But in reality, in the rural areas, there are not even enough public high schools and we are saying now that we should subsidize them to go into private high schools as well when there is none. So, over and beyond that issue, there is the issue of providing secondary education to all in the rural areas, for example. That is what we mean. We feel that the issue that was presented should be discussed; and, in fact, I am amenable to it because it is something even broader. But it clouds the basic issue of secondary public education.

MR. GUINGONA. Mr. Presiding Officer, additionally, I notice that some of our honorable colleagues are cost-oriented or cost-conscious, which is certainly a good thing, and what our distinguished chairman has pointed out, the increase, as contained in this study by FAPE and provided us by Dr. Arcelo, would only be 6 percent of the present low budget of P11 billion. And may I point out that in the giving of the figures by our distinguished chairman, he has considered capital outlay as an expense but Commissioner Rosario Braid has talked about private service contracting which will reduce drastically the capital outlay expense, which according to this report is about P2.4 billion; which means that we can still subtract this amount of P2.4 billion from the P6-billion increase which will even reduce the increase from the present P11-billion budget to only 3.6 percent.

With regard to the remark of Commissioner Rodrigo, I believe that his reference to the concern of Congress for education is rather speculative because there are other areas of concern for the legislators; and if the legislators were given a choice between providing for education, on the one hand, and providing for their pork barrels, on the other hand, I wonder which they will choose.

SR. TAN. Mr. Presiding Officer, point of order.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Christine Tan is recognized.

SR. TAN. We were on the amendments on compulsory education, then we went to private education, the pork barrel and funding private education. I do not know where we are.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair would like to clarify the situation. The amendment of the Honorable Rodrigo, as amended by the Honorable Bacani, is to reword Section 1 (b) to read as follows: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL PROVIDE MEASURES THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT THE ELEMENTARY AND HIGH SCHOOL LEVELS . . ."

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Nolledo is recognized.

MR. NOLLEDO. Only for one minute. I would like to speak against the amendment and for the retention of the recommended provision by the committee, subject to a provision in the Transitory Provisions that the implementation of free high school education will be delayed for some time.

Mr. Presiding Officer, I think the main objection is that we do not have the money to finance free education in high school and that objection, I think, is premised on the wrong assumption that we will never attain economic recovery. I would like the Members of the Commission to know that the uniform result of our consultations in all places of the Philippines is that the people are demanding free elementary and high school education; there is no dissent to that.

And we have already stated in an approved provision that education is a right. To provide free secondary education will strengthen this provision. We also stated that it is the duty of the State to provide education. To provide free high school education will be to render meaningful this provision. And I do not need to say that education is the foundation of a strong nation. An educated citizenry makes an enlightened nation.

If there is a will, there is a way. If we put the recommended provision of the committee in the Constitution, there is something to hope for on the part of the citizenry, and an obligation to aspire for on the part of the State.

So my conclusion is that the economic constraints that we are talking about are merely temporary.

Thank you, Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

MS. ROSARIO BRAID. Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. VILLACORTA. Mr. Presiding Officer, may we ask for a suspension of the session for two minutes so we can resolve this problem.

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection? *(Silence)* The Chair hears none; the session is suspended for a few minutes.

It was 3:57 p.m.

RESUMPTION OF SESSION

At 4:11 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

The Honorable Rodrigo is recognized.

MR. RODRIGO. The parliamentary situation is I have accepted the amendment to the amendment presented by Commissioner Bacani. So, may I request that Commissioner Bacani be recognized.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bacani is recognized.

BISHOP BACANI. Thank you, Mr. Presiding Officer.

So as to make the issues very clear, the committee, at the request of Commissioner Rodrigo, has acceded that I withdraw my amendment to the amendment so that the amendment of Commissioner Rodrigo will be voted upon, and then I can just propose my amendment later.

MR. RODRIGO. So, may I reformulate my amendment?

THE PRESIDING OFFICER (Mr. Azcuna). The Gentleman may proceed.

MR. RODRIGO. The amendment will read: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

THE PRESIDING OFFICER (Mr. Azcuna). What is the reaction of the committee?

MR. VILLACORTA. Mr. Presiding Officer, we regret that we cannot accept the proposal because the committee is planning to submit to the Committee on Transitory Provisions a proposed section that will allow Congress to determine the period of time during which the government would be able to implement the giving of free public secondary education. In other words, that step of ours will really respond to the worry of Commissioner Rodrigo about the present inability of the government to finance free public secondary education.

MR. RODRIGO. But, Mr. Presiding Officer, that idea that Congress will determine when this will be implemented is contained in my amendment – "SHALL TAKE MEASURES." Those measures mean legislation by Congress. And so, I ask that we vote on my amendment to expedite matters.

THE PRESIDING OFFICER (Mr. Azcuna). The body will now vote, but before we vote, we will ask Commissioner Rodrigo to restate his amendment.

MR. RODRIGO. The amendment will read: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Just a moment, Commissioner de Castro is recognized.

MR. DE CASTRO. Before we vote, I heard that to get a free elementary and high school education, we have to prioritize our budgeting to meet the objections of Honorable Rodrigo. Is that correct?

MS. ROSARIO BRAID. Yes.

MR. DE CASTRO. If we are to prioritize our budgeting, we have to get from some items like public works.

THE PRESIDING OFFICER (Mr. Azcuna). May I know to whom the question is addressed? Is it to the committee?

MR. DE CASTRO. I am talking about the question of prioritizing our budget.

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

MR. DE CASTRO. I will show the body that it would be impossible at this time. I heard Commissioner Sarmiento say that if we reduce the budget of the AFP, perhaps we can give free high school and elementary education. As of now – correct me if I am wrong – the budget of the AFP is 8.7 percent of our budget and that of education is 12 percent. Am I correct?

I will say that unless there is peace and order in this country, we cannot have free elementary and high school education. At present, the strength of the NPA is about 20,000. To appropriately meet this force, according to our studies, the ratio should be 1:15 up to 1:20. If we will have a ratio of 1:20, to stop insurgency once and for all, we will need 400,000 regular armed forces. As of now, we only have 200,000–80,000 PCs, 70,000 police maintaining peace and order, plus 70,000 CHDFs which we will demilitarize when we reach the Article on General Provisions. The ration of each soldier is only P12 a day. That is why when a soldier reaches the barrio, he gets chickens, pigs, goats and so on. This is a violation of human rights. I am not protecting them. I am condemning these acts and I have told General Ramos about these. But he said we need P16 to appropriately feed our soldier, but the most we can give is P12. According to Commissioner Sarmiento, we still have to reduce that and give it to education as a matter of prioritizing. One will find out that in a few months the communists will be ruling us because we shall not be able to stop them, and perhaps our talk about free education cannot be realized anymore. Please take note that our President is getting out of her way to meet Nur Misuari in the South, a very dangerous place indeed, just so she can pacify the MNLF, not the 20,000 insurgents yet.

So, Mr. Presiding Officer, if we are talking of prioritizing the support on education, I hope we will also prioritize the requirements to beat once and for all the insurgency problem and establish peace and order in our country. Once this problem is solved, we can have agrarian reform, social justice and all the education we want. But, above all, to my humble thinking, peace and order must first be resolved.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Are we now ready to vote?

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The chairman of the committee is recognized.

MR. VILLACORTA. We just would like to point out that the prioritization that we are talking about is not only at the expense of the AFP budget. We are not singling out the AFP. Moreover, on the question of peace and order, there is much that free public secondary education can contribute to better peace and order because peace and order cannot only be attained through pacification but through other means. Besides, the other measures that are being proposed by this Constitution – agrarian reform, industrialization and other economic measures, as well as sociopolitical measures – will eventually bring our country to economic recovery and political stability. We are anticipating these better days for our country.

MR. DE CASTRO. I made mention of this, Mr. Presiding Officer, because I heard Commissioner Sarmiento say – I hope I heard him correctly – that if we can reduce the budget for the AFP, perhaps we can meet at least five percent of the requirement. And I still heard some members of the committee talk about the budget of the AFP. I am not for increasing the budget of the AFP; I am for seeing to it that there is peace and order in our country. So, I made mention of these statistics that I have in my mind. I really have a write-up on this, but I cannot help but answer some comments about reducing the budget of the AFP in order to prioritize the educational requirement.

Thank you.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Padilla is recognized.

MR. PADILLA. Before the last suspension of the session, I was about to make two inquiries of the committee. I heard from Commissioners Rosario Braid and Guingona about service contracts. Are these also contemplated in the area of education? I thought service contracts could be entered into with regard to our natural resources and public utilities. Is it contemplated that there be also service contracts, meaning, some foreigners with probably Filipino capital entering into the field of education?

MR. VILLACORTA. Mr. Presiding Officer, we are separating the issue of service contracts which was included in Commissioner Bacani's proposal. By the way, these service contracts are with respect to educational service contracting, not with foreigners but more with private schools.

MR. PADILLA. Because I was confused by the words "service contracts."

I have another inquiry for the distinguished chairman. He mentioned many poor countries including Haiti, Sri Lanka and some South American countries – and I hope I did not hear Bangladesh – to the effect that their constitutions provide for free secondary education. Is this a mere formal expression in the constitution or is that actually implemented in those countries?

MR. VILLACORTA. We consulted their constitutions, Mr. Presiding Officer; we have not really dealt with the actual experiences of these countries because these data are not available.

MR. PADILLA. These countries might have made a nice expression of free education, including secondary education. But I doubt very much if there is such an established fact of free elementary education in Haiti, for example, or in Bangladesh. These are very poor countries and we should not compare ourselves with them. We just have to face the realities of our situation. We have a growing population. That means more children will have to be accommodated not only in the elementary but perhaps in the high schools. We really have a problem on peace and order; we have the problem of economic reconstruction. And when the distinguished chairman said that the Rodrigo amendment is based on two assumptions, I am afraid that many answers of the committee are based on mere assumptions.

MR. REGALADO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of the Honorable Regalado?

MR. REGALADO. There were a few things during the suspension of the session that I wanted to clarify but, incidentally, on that matter of service contracts which is generally confused with what we give to these foreigners who come here to try to drill for oil, in the MECS, where there is this practice, students from public schools are brought to private schools and they pay for their tuition there. They do not call it service contracts; they call it contract servicing, meaning, a contracted rendition of educational services to distinguish it from service contracts. That was the original term. They eventually decided to make a distinction.

During the suspension, there were statements by members of the committee that we can make a firm commitment to grant free secondary education if we slash a portion from the allocation to the military, and not only to the military but also other budgetary allotments. Of course, that is true. If we can slash 50 percent from each budgetary allotment, we can even grant free tertiary education. But has the committee made inquiries into the feasibility of transferring some of the budgetary allotments from the allottees right now so that they could possibly be availed of for purposes of the Ministry of Education, say, within one year or two or three years from now since the committee is contemplating on putting something in the Transitory Provisions? Has the committee made some preliminary inquiries into the feasibility of such transfers or slashes in the budget of the Ministry of Education? And if so, what were the findings?

MR. VILLACORTA. Mr. Presiding Officer, first of all, we would like to clarify that it is not just a matter of slashing but also of saving, and this present government has done a good job in saving money by doing away with needless expenses. And that in itself would be proof that if we have the political will to provide more for education, it is possible. I think we can trust the genius of our future elective, as well as appointive, leaders to come up with ways to make money.

MR. REGALADO. Incidentally, just as a kickoff, for this fiscal year, what is the present budget and what is the percentage allotted to the Ministry of Education?

MR. VILLACORTA. I understand it is P12.5 billion.

MR. REGALADO. For the ministry?

MR. GASCON. It is 11 percent.

MR. VILLACORTA. I think Commissioner Gascon has the statistics.

MR. GASCON. The percentage that education receives at this point in time is P12.5 billion.

MR. REGALADO. And if we were to provide free public secondary education, what would be the projection?

MR. GASCON. We said that we need P6.5 billion more so that it will reach up to P19 billion, which will mean an increase in the national budget of only 6 percent for education. So, from the present 12 percent of the national budget for education, if we increase it to 18 percent or perhaps 20 percent, we would be able to provide for free secondary education. It will be recalled that prior to the Marcos dictatorship, education received up to 35 percent. The whole point is, if we really reprioritize to provide an increase in percentages for education, maybe in the next three to five years, we would be able to provide for free secondary education. It is possible.

MR. REGALADO. Have there been fiscal projections to the effect that suppose we want to give free secondary public education by next year, we would be in a position to do so given the present expenditure and income that we have?

MR. GASCON. By next year, perhaps, no. However, it is the intent of the Ministry of Education, Culture and Sports to gradually increase the percentage that education receives from its low 12 percent to, hopefully, at a level point of 20 percent to 25 percent.

MR. REGALADO. I asked the question about fiscal projections because of the statement of the chairman that the committee plans to put in the Transitory Provisions a certain rating period within which we can have the implementation of the program.

MR. GASCON. That is correct.

MR. REGALADO. But we still do not have, more or less, a tentative specific period.

MR. VILLACORTA. Not yet, Mr. Presiding Officer. We leave it to Congress because Congress would be able to tell how long it will take.

MR. GASCON. So, actually, with regard to the Rodrigo amendment which we would be voting on — although it states categorically that, first, there will be a system of free elementary education and, second, it shall take measures to establish and maintain a system of free public education at least up to the secondary level — our proposal is that instead of putting it under the provision on education, we make a categorical statement that it shall establish and maintain a free public education up to the secondary level, and when we go to the Transitory Provisions, we shall provide for such.

Thank you, Mr. Presiding Officer.

MR. GUINGONA. Mr. Presiding Officer, may I just add that the 6 percent that the honorable Commissioner Gascon mentioned is already the maximum. As I pointed out earlier, it would go down to as low as 3.6 percent of the present budget; that is, for the school year 1986-1987.

MR. MAAMBONG. Mr. Presiding Officer.

MR. REGALADO. In other words, the Rodrigo proposal provides that the State shall provide measures, whereas the committee would like to specify right away that it shall provide for a free secondary education. But in the Transitory Provisions, those proposed measures contemplated in the Rodrigo amendment would be made available in the Transitory Provisions.

MR. VILLACORTA. That is right, Mr. Presiding Officer. Our proposal will be more reflective of the nature of the problem. We are apprehensive about a temporary situation that is why we would like to put it in the Transitory Provisions. But with respect to provisions on public elementary and secondary education, we would like it to be more categorical because this is the Constitution that we are making and it is supposed to be for all time.

MR. TADEO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of the Honorable Maambong?

MR. MAAMBONG. I have just been assigned as Acting Floor Leader. The floor is now ready for the vote.

MR. DAVIDE. Mr. Presiding Officer.

MR. TADEO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of the Honorable Davide?

MR. DAVIDE. In order that I can vote intelligently, I seek this inquiry from the committee. Is it the stand of the committee that the Rodrigo amendment is proper provided that it will be in the Transitory Provisions? In other words, does the committee accept this? But it is now a question as to where to place the same, and it is the proposal of the committee that it shall be in the Transitory Provisions.

MR. VILLACORTA. Not exactly, Mr. Presiding Officer. What we really want is the approval of the section that we are proposing.

MR. DAVIDE. On the question of the Rodrigo proposal, Mr. Presiding Officer, we disregard first the committee proposal.

MR. VILLACORTA. Yes, that is right.

MR. DAVIDE. Is it the stand of the committee that it should be accepted but should be placed in the Article on the Transitory Provisions?

MR. VILLACORTA. No, Mr. Presiding Officer, because what we have in mind is simply the provision that Congress will determine the period of time.

MR. DAVIDE. I thought that that was the position of Commissioner Gascon speaking for the committee.

MR. VILLACORTA. Commissioner Gascon?

MR. DAVIDE. Yes.

MR. VILLACORTA. I do not remember Commissioner Gascon making that statement.

MR. GASCON. What I said, Mr. Presiding Officer, is that the committee prefers what is written in our committee report. However, we see that the Rodrigo amendment, which states that the State shall take measures to establish and maintain a system of free public education at least up to the secondary level, is more attuned to what we intend to do in as far as providing it in the Transitory Provisions.

MR. DAVIDE. In effect, the committee will be adopting that, but it should be in the Transitory Provisions.

MR. GASCON. Not exactly. It needs a little rewording because what we want to say is that Congress will provide the term towards a secondary education.

MR. DAVIDE. We want to be clarified on the stand of the committee so we could either join the committee or not, because if the committee prefers that it should be in the Transitory Provisions, I might even be voting in favor of that.

MS. ROSARIO BRAID. No. Let me explain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. The stand of the committee is that we would like free secondary education but we would also like to include a provision in the Transitory Provisions along the Ródrigo proposal, but it will specify a particular time frame.

MR. DAVIDE. In effect, the committee has no serious objection to the Rodrigo proposal, except that it should be in the Transitory Provisions.

MR. VILLACORTA. No, Mr. Presiding Officer. The Rodrigo proposal has two parts. The first part reaffirms the 1973 provision for free public elementary education. The second part has to do with the State endeavoring to take measures to ensure free public secondary education.

MR. DAVIDE. Thank you, Mr. Presiding Officer.

MR. VILLACORTA. May we ask for clarification from Commissioner Rodrigo?

MR. RODRIGO. There is a conflict now between the answers of the two committee members. I remember that Commissioner Gascon said that the purpose is to have a provision in the Transitory Provisions, leaving it to Congress to determine the time frame.

MR. VILLACORTA. For free public secondary education, Mr. Presiding Officer.

MR. RODRIGO. Yes. But then Commissioner Rosario Braid said a definite time frame will be in the Transitory Provisions. Which is it now?

MR. VILLACORTA. The committee is not for a definite time frame because Congress will determine the time frame.

MR. RODRIGO. So, the two points in my proposed amendment will also be incorporated, except that the two will be separated – one in the body and the other in the Transitory Provisions. But why break it up? Is it not clearer for people who read the Constitution to see this in just one sentence instead, because it seems we are mandating a definite commitment to have a secondary education? And then one has to see the Transitory Provisions; and in there, it is not really a commitment. We are leaving it to Congress. I ask that we vote.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair would like to make an announcement that the matter has been sufficiently discussed and the Chair would like to submit it to a vote now.

MR. GUINGONA. With due respect to the Chair, may we just clarify the situation?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Azcuna). The session is suspended.

It was 4:38 p.m.

RESUMPTION OF SESSION

At 5:11 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

Commissioner Guingona is recognized to give his reply to the remarks of Commissioner Rodrigo.

MR. GUINGONA. Thank you.

I would like to yield to Commissioner Ople.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. Thank you very much, Mr. Presiding Officer.

I thought I would like to get some final clarification concerning the distinction – it can be a distinction of substance or form – between the committee-proposed text and the Rodrigo amendment in which he was joined by Bishop Bacani.

MR. RODRIGO. May I answer that.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of Commissioner Rodrigo?

MR. RODRIGO. I thought Commissioner Ople was asking a question. Was he propounding it to me?

MR. OPLE. I said I would like to seek a final clarification and this can be addressed to both the committee and to the proponent of the amendment. In the committee text, it says categorically that the State shall establish a free system of public education at both the elementary and the secondary levels.

In the Rodrigo amendment, I think, the wording is such that the State shall take measures to establish such a system. The committee had sought to accommodate Commissioner Rodrigo's concern over the financial feasibility of the free system of public education up to secondary level. The committee manifested their intention to submit a proposal to the Committee on Amendments and Transitory Provisions that would, in effect, mandate Congress to pass a law that would determine the time frame within which this free system of public education up to the secondary level will be deemed implementable. This, I think, is correct because Congress holds the purse in the tripartite system of government where we have the executive, the legislative, and the judiciary. It is said that the executive is the sword, the judiciary is the Scripture, and the legislature, the holder of the purse. And so, it is right that Congress should determine the time frame for the implementation of a constitutional mandate establishing a free system of public education in both the elementary and the secondary levels.

Will Commissioner Rodrigo subscribe to this distinction, a substantial distinction between his proposal and the text submitted by the committee?

MR. RODRIGO. May I add to that distinction. If the committee stand is approved, then anybody who reads Section 1(b) in the body of the Constitution will get the impression that this is a definite, unconditional commitment by the State. Unless he turns the pages and looks into the Transitory Provisions, that will be his impression.

And so, this can be deceptive. Very few persons, after seeing this provision, will take the trouble of looking at the Transitory Provisions, unless we place an asterisk and indicate "Please see Transitory Provisions." Whereas in my amendment, all of these are in just one section. There is no possibility of mistake, or of being misled or deceived. If the committee wants to place a provision in the Transitory Provisions, let us say, giving Congress ten years, then there is no inconsistency with my amendment. But the good thing about my amendment is, at one glance, people will see just what the Constitution provides; whereas, in the committee plan, there are two provisions. In one, it appears like an unconditional, immediate mandate. But then there is a sort of a catch in the Transitory Provisions.

MR. OPLE. Mr. Presiding Officer, we are talking of a distinction between substance and form, and I think Commissioner Rodrigo has been accentuating the form rather than the substance.

MR. RODRIGO. But that is very important.

MR. OPLE. May I complete my statement, Mr. Presiding Officer. When I speak of a distinction of substance, I do refer to the fact that in the committee text the Constitution holds the initiative. It says outright that the State establishes a free system of public education up to the secondary level and that leaves a very little margin of choice to the Congress in order to put the structure on flesh to such an unequivocal, forthright and, perhaps, even urgent mandate of the Constitution.

On the other hand, in the Rodrigo provision we leave to Congress most of the initiative, including the discretion, perhaps under pressure from financial advisers of the government who are very powerful, to take their time before measures are taken. We are not even sure about the sufficiency of such measures before the system of free public education up to the secondary level actually gets translated into a workable and operating system.

I think I should like to point out, Mr. Presiding Officer, that as Commissioner Guingona said earlier, we have been to some of these public hearings and there seemed to be a tremendous clamor for free public schools in addition to free elementary education that the people now enjoy. I really admire the attitude taken by Commissioner Rodrigo from the beginning. I have joined him many times in urging this Commission to be prudent in offering hope that cannot be fulfilled because that is one way of deceiving our people. But I think in this case, I would like to part ways with Commissioner Rodrigo because the vision of a free public school system does obsess many of us. This is not a mandate to establish overnight free public schools in all municipalities. Unlike in the case of the universal elementary school system, I think there is a good amount of flexibility given to Congress and to the President and the Minister of Education, Culture and Sports in the days to come.

I have looked very closely at some of these data. I think the cost is affordable – P6 billion need not be a recurring cost because part of this is P2.5 billion of infrastructural capital budget, which means these are one-time expenses. And, therefore, when I take a look at the hemorrhage of public funds through losing government corporations, I am fascinated by the thought that even just a part of these funds that go into new equity infusion to failing government corporations could indeed make it extremely feasible for Congress to establish the kind of free public school system up to the secondary level as is contemplated in this report. And so, in reply to Commissioner Padilla, may I say that in the case of some countries I mentioned, based on the monumental work of Gunnar Myrdal, I think the principal conclusion of that great study known to most scholars is precisely that when we allocate more funds to the development of the human being himself, we improve the quality of the population. That is an investment that recovers manifold the returns of other investments merely placed in natural resources. The primacy of human resources, both as a factor in economic and social progress, can no longer be doubted. And so, in Sri Lanka where the per capita income is $260 versus the $700 per capita income of the Philippines, they have a complete free public school system up to the secondary and the tertiary levels. I am not saying that Sri Lanka is superior to the Philippines. What I am saying has reference to Gunnar Myrdal's historic study, *The Asian Drama,* an inquiry into the poverty of nations in South and Southeast Asia. A country poorer than the Philippines, like Sri Lanka, by all the indices of social and economic well-being seems to be more elevated than we are, and the only reason is that they spend for free public education a lot more proportionately to their budget than a richer country.

And it is upon these grounds, Mr. Presiding Officer, that I want to manifest my support for the text of the committee report, provided that we accommodate Commissioner Rodrigo's well-placed concern for the financial feasibility of this free public educational system in the Transitory Provisions, leaving to Congress the mandate and the flexibility to determine the time frame.

Thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Does Commissioner Rodrigo wish to respond?

MR. RODRIGO. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). With the indulgence of Commissioner Tadeo, I would like to give Commissioner Rodrigo a few minutes to respond.

MR. RODRIGO. Just two sentences, Mr. Presiding Officer. The only issue is: should we separate the portion which states that Congress will have to implement this provision from the main provision that this is a definite constitutional commitment? As for me, I would not want to separate the two. I want them in just one provision. I think this is better because the people will know just what the provision really is at one glance. I think it is better that we place in one provision, right in the body of the Constitution, the whole principle plus the implementing provision, so that there can be no mistake; there can be no deception, intentional or unintentional.

Thank you very much.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of Commissioner Tadeo?

MR. TADEO. Ang aking tunay na papel dito ay ang magbigay ng dugo at laman batay sa karanasan.

THE PRESIDING OFFICER (Mr. Azcuna). Ito ba ay tungkol sa amendment ni Commissioner Rodrigo?

MR. TADEO. Ano ba ang iniisip ng Kinatawang ito tungkol sa "free public education in all levels" para sa mga magbubukid? Education is the right of every citizen of the Philippines. Ang edukasyon ay hindi "profit-oriented"; ito ay "service-oriented." Kung ito ay "service-oriented," ang karapatan ng isang mayaman ay karapatan din ng isang dukha, sapagkat ito ay isang karapatan at hindi isang pribilehiyo – mayroon ding karapatang tumuntong hanggang kolehiyo ang mga dukha. Nais ko lamang bigyang buhay ang isang kongkretong karanasan noong isilang ang barangay high school. Bunga ng sobrang kahirapan, sumisigaw sa kahirapan ang manggagawang bukid, na ang hanapbuhay ay nakatuon lamang sa pagtatanim at maghihintay pa siya ng gapasan para siya kumita. Sa panahong bakante, paano pa siya makapagpapaaral ng kanyang anak – libre ang pagpapaaral sa elementarya, ngunit pagdating ng high school, panay na pribadong paaralan lamang ang nagbibigay ng sekondaryang edukasyon? Makatutuntong pa ba siya ng high school?

Ang manggagawang bukid kung walang gawain ay walang makain; puro utang iyan. Kayat pagdating ng anihan, babayaran lamang niya ang kanyang mga utang at magsisimula na naman siya sa wala. Ngunit nang dumating ang barangay high school, nakapagpapaaral siya kahit walang kakainin.

Mayroong isang magandang nagawa si Commissioner Natividad sa Bulacan – ang Bulacan College of Arts and Trades. Mayroon ngayong kolehiyo sa Bulacan, at kamakailan lamang ang lahat ng kauna-unahang nagtapos ng pagka-inhinyero o "civil engineering" ay pasadong lahat. Ito ay isang kolehiyo lamang sa Bulacan. Nagkaroon din ng Bulacan College of Arts and Trades sa Bustos, at ang aking anak na si Andres Bonifacio ay doon nag-aaral. Alam ba ninyong ang matrikula ay P130 lamang sa isang taon? Aba'y sino naman ang hindi makapagpapaaral ng ganoon? Ngunit ang isang manggagawang bukid na walang maibigay na baon sa anak ay pinahihinto ang pag-aaral ng mga anak sa BCAT (Bulacan College of Arts and Trades) dahil ito ay nasa Bustos. Kami ay taga-Plaridel, kayat ang pamasahe ay ikakain na lamang ng pamilya. Saan ipinasok ang bata? Ipinasok sa barangay high school, dahil sa barangay high school mamimisikleta ka lamang o maglalakad ka lamang; wala ka nang pamasahe.

Ito ay isang kongkretong karanasan. Naniniwala akong ang aking tungkulin dito ay ang bigyan ko ng dugo at laman ang isang kongkretong karanasan.

Mga kasama, sasagutin ko lamang ang aking kaibigang Commissioner de Castro. Makabubuting suriin nating mabuti ang ibig pong sabihin ni Commissioner Sarmiento tungkol sa "budget" ng militar. Noong hindi pa idinideklara ang martial law, ang bilang ng military ay animnapu't dalawang libo lamang, ngunit pagkaraan ng ilang taon, inaabot ito ng tatlong daang libo kasama ang paramilitary bagamat wala naman tayo sa digmaan. Isa ito sa pinakamalaking lumalamon ng ating budget. Ngunit ano ba iyong ugat ng peace and order? Muli akong magbabahagi sa inyo ng isang karanasan. Kapag inilaban ng magbubukid ang kanyang karapatan sa lupa, ang itatapat ng propretaryo o panginoong may lupa ay private army. Kapag nagreklamo ang mga magsasaka sa Mindanao tungkol dito sa pangangamkam ng lupa ng multinational, ang itinutugon ng Armed Forces of the Philippines ay dahas. Kayat ang tugon ng magsasaka ay:

> Saan ba kami tatakbo? Kahit saan kami sumilong, papatayin nila kami, humawak man kami ng armas para ipagtanggol ang aming mga sarili. Ang armas ay proteksyon para sa amin.

Kung titingnan natin ang kalagayan, ang solusyon sa kanayunan ay ang tunay na reporma sa lupa. Kapag ipinairal natin ang tunay na reporma sa lupa, magkakaroon ng katarungan. Sinasabi iyan sa mga sinulat ni Mateo 23:23 (Matthew 23:23). Ang pinakamahalaga ay katarungan. Kapag ipinairal natin ang tunay na reporma sa lupa sa kanayunan, magkakaroon ng katarungan, ng kapayapaan at mawawalan ng kaguluhan. Ang mga tao sa bundok ay bababa na kapag pinairal natin ang tunay na reporma sa lupa. Hindi na kailangan ang militar. Babawasan natin ngayon ang military at ang budget ng militar ay ibibigay natin sa edukasyon.

Iyan lamang ang ibig sabihin ni Commissioner Sarmiento bilang paglilinaw.

The argument against free public education all the way to college based on financial constraint of the government will not hold water when the same government is being pressured to support financially through exemptions and subsidies private schools, including proprietary schools.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, may we now request for a vote.

MR. DE CASTRO. Mr. Presiding Officer, just one statement, please.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

Nabanggit ni Commissioner Tadeo na bago raw mag-martial law ang lakas ng militar ay wala pang isang daang libo; marahil mga limampung libo lamang. At bago naman mag-martial law, ang ating kalabang NPA ay wala pang limang daan. Dumami lamang nitong panahon ng ating magaling na Ginoong Marcos. At hanggang ngayon ay dumadami pa sila sapagkat kulang na kulang ang ating armed forces upang makibaka sa kanila. Kung ating babawasan ang militar, walang problema sa akin; ako ay isang retired officer; bahala na sila. Ngunit, isipin natin na kung walang peace and order, ay paano na ang ating barangay high school? Bagamat walang bayad diyan, hindi naman natin mapapasukan.

At pagkatapos ng martial law, dumami naman ang MNLF. Paano nangyari ito? Ang dahilan ay ang Tripoli Agreement na ginawa ng ating dating Presidente na hindi naman sinunod. Ilang libo silang kumakalaban sa ating armed forces ngayon at sinasabi kong padami pa sila. Ito'y amin nang nabanggit kay General Ramos at sa ating dating Presidente. Bakit nang bago mag-martial law ay mga limang daan lamang ang NPA? Bakit ngayon ay labing anim hanggang dalawampung libo na sila?

Ngayon, kung ninanais ninyong alisin ang ating armed forces, walang problema sa akin iyan. Ang may suliranin ay kayong mga bata. Dadalawang taon o isang taon na lamang ang aking itatagal dito sa mundong ito, ngunit ang mga bata ay mayroong mga tatlumpung taon pa. Isipin ninyo kung saan kayo pupunta kung walang peace and order. Hindi sapagkat ipinagtatanggol ko ang Armed Forces of the Philippines, kinakalaban ko pa nga sila. Bakit dumami ang New People's Army? Sapagkat ninanakawan sila ng manok, ninanakawan sila ng kambing, ninanakawan sila ng baboy. Ang sabi naman ng mga militar:

> Ano naman ang kakanin namin? Ang ibinibigay sa amin ay ganoon lamang. And yet, we fight and we die everyday.

Recently, there were 16 members of the military killed. If they were our brothers or our relatives, perhaps, we would cry to the heavens. Bakit ganyan ang nangyayari? Kaibigang Tadeo, kakaunti ang militar bago mag-martial law sapagkat kakaunti ang kalaban.

Ang Sri Lanka, ayon kay Commissioner Ople, ay walang problema tungkol sa insurgency, kayat naibubuhos nila ang malaking halaga sa edukasyon. Kayat ang insurgency at ang peace and order ang dapat nating unahin. Maaaring dumating ang panahon na tayo ay hindi na makakakain ng tanghalian, hindi na makakakain ng hapunan sapagkat tayo ay inaabala ng kapwa tao. Iyan lamang ang aking pahatid sa ngayon kay Commissioner Tadeo.

THE PRESIDING OFFICER (Mr. Azcuna). Thank you.

MR. MAAMBONG. Mr. Presiding Officer, may I withdraw my motion for a moment and ask that Commissioner Bacani be recognized.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bacani is recognized.

BISHOP BACANI. May I ask the committee what difference it will make if it is the committee's version or the version of Commissioner Rodrigo which will be followed? Let us foresee the scenario after this Constitution is approved, when we say that the State shall provide free elementary and high school education, while Commissioner Rodrigo says that the State shall take measures to provide such.

MR. VILLACORTA. Thank you, Mr. Presiding Officer.

The main difference we had pointed out is that our proposal makes permanent the idea of free public education up to the secondary level, because as we said, the body of our Constitution is addressed to all times. We are not concerned with the immediate present because the conditions of the immediate present may change, and are likely to change because we shall not be forever underdeveloped. However, to provide for the apprehensions such as those expressed by Commissioner Rodrigo, et al., we would like to provide in the Transitory Provisions the idea of Congress determining the time frame for the implementation of free public secondary education — only for free public secondary education. We understand and we sympathize with those who are afraid that, given the present economic crisis, it may not be possible for the government to immediately implement the intention of this proposed paragraph in Section 1 under Education. So, that is the main difference.

However, this is not to say that we do not appreciate the amendment of Commissioner Rodrigo in the second sentence which says that the State shall take measures to this effect. But as in the 1973 Constitution, there have been many provisions which stated that Congress shall take steps or that Congress shall take measures, but we know from our experience, as in the example of the development of the national language, that hardly anything was done. The proposal gives the government, or any government, much leeway, something to fall back on if it is unable to fulfill its duty.

Secondly, I do not think that there is anything deceptive, although as Commissioner Rodrigo said, it might be unintentionally deceptive to put this allowance for Congress in the Transitory Provisions. Although we have the terms of the President and the Vice-President fixed in the body of the Constitution and at the same time in the Transitory Provisions, we shall be providing for adjustments to respond to immediate and present exigencies and circumstances. For example, the synchronization of elections contained in the provisions proposed by Commissioner Davide appears in the Transitory Provisions in order to supplement the provisions that are in the body of the Constitution.

I hope that answers the question of Commissioner Bacani.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair recognizes Commissioner Maambong.

MR. MAAMBONG. The floor now asks for a vote, but during all these discussions, the amendment got lost somewhere along the way. May we ask the committee to restate the amendment in clear terms so that the body will know what is to be voted on.

Thank you.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rodrigo is recognized.

MR. RODRIGO. The proposed amendment reads: "THE STATE SHALL MAINTAIN A SYSTEM OF FREE PUBLIC ELEMENTARY EDUCATION AND SHALL TAKE MEASURES TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT LEAST UP TO THE SECONDARY LEVEL."

VOTING

THE PRESIDING OFFICER (Mr. Azcuna). As many as are in favor of the proposed amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 13 votes in favor, 18 against and 1 abstention; the proposed amendment is lost.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Acting Floor Leader is recognized.

MR. MAAMBONG. May I ask that Commissioner Bacani be recognized for his amendment?

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bacani is recognized.

BISHOP BACANI. Mr. Presiding Officer, may I now propose my amendment which I made together with Commissioner Nieva and which is also cosponsored by Commissioners Guingona and Rosario Braid?

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

BISHOP BACANI. My amendment reads: "THE STATE SHALL PROVIDE MEASURES, INCLUDING SUBSIDY TO STUDENTS, THAT WILL MAKE ACCESSIBLE TO ALL EDUCATION AT ALL LEVELS."

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Villacorta is recognized.

MR. VILLACORTA. Before the committee makes a decision on the motion, may we know whether this does not take the place of the committee's proposal which says: "The State shall establish and maintain a system of free public education at the elementary and secondary levels"? Will the Commissioner's amendment be the second sentence after our first sentence? Is that the intention?

BISHOP BACANI. Yes. I was made to understand by the committee that the paragraph that we just voted upon has to do with the public system of education. Now what is being proposed here is that the State will also make accessible elementary and high school education, as well as tertiary education for those qualified by other means.

MR. BENGZON. Mr. Presiding Officer, parliamentary inquiry, please.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bengzon is recognized.

MR. BENGZON. After the Rodrigo amendment was defeated, how does the section stand now before the Bacani proposal?

THE PRESIDING OFFICER (Mr. Azcuna). May we ask the chairman of the committee to answer that?

MR. VILLACORTA. Mr. Presiding Officer, the proposed Section 1 (b) under Education would read: "THE STATE SHALL ESTABLISH AND MAINTAIN A SYSTEM OF FREE PUBLIC EDUCATION AT THE ELEMENTARY AND SECONDARY LEVELS AND A SOCIALIZED FEE STRUCTURE IN THE TERTIARY LEVEL OF STATE COLLEGES AND UNIVERSITIES."

MR. BENGZON. The situation now is that we go back to the original report?

MR. GASCON. But it has not been approved yet by the body, Mr. Presiding Officer.

MR. BENGZON. That is right.

MR. GASCON. What we voted upon was the Rodrigo amendment but this section has not yet been voted upon.

MR. BENGZON. Yes, so we are back. Are we now using the original text?

MR. VILLACORTA. Yes.

MR. GASCON. Commissioner Bacani's proposal, therefore, would follow after we have approved on principle the providing of free public secondary education. So I think we have to decide first on that issue before we go into the additional amendment.

THE PRESIDING OFFICER (Mr. Azcuna). Does that answer the parliamentary inquiry?

MR. BENGZON. So are we going to vote now on whether or not the State shall provide mandatorily for a free public education in the secondary level? Is that the issue now?

MR. VILLACORTA. Yes.

THE PRESIDING OFFICER (Mr. Azcuna). May we ask Commissioner Bacani to read his proposed amendment?

Has it been withdrawn?

MR. VILLACORTA. Commissioner Bacani reserves the right, Mr. Presiding Officer, to propose it again because his amendment is really a supplement to our proposal.

THE PRESIDING OFFICER (Mr. Azcuna). Meanwhile, Commissioner Bacani has withdrawn his proposed amendment. Is that correct?

BISHOP BACANI. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, in the list that I have here, Commissioner Aquino is listed as having reserved her right to propose an amendmet.

MR. GASCON. Mr. Presiding Officer, is this an amendment to the same section? If it is not, maybe we could go into approving the principle of free public secondary education so that we can go on the third issue, after which we can continue from there.

So, we request that we make a vote on the principle of providing free public secondary education.

MR. MAAMBONG. Commissioner Aquino said that her amendment has already been covered. May I ask that Commissioner Davide be recognized on the same section.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Mr. Presiding Officer.

These amendments are reflected in the amended omnibus amendments which I submitted. I would like to propose the insertion of a new paragraph to Section 1 (a). It will read as follows: "TOWARD THIS END, THE STATE SHALL ESTABLISH, SUPPORT AND MAINTAIN."

Then we begin with letter (a), which is actually paragraph (b) of the original. And I seek to combine (b) with letter (d) or paragraph (d) on the second page and the others will follow. So, it will now read as follows: "TOWARD THIS END, THE STATE SHALL ESTABLISH, SUPPORT AND MAINTAIN:

(a) A COMPLETE, ADEQUATE AND INTEGRATED SYSTEM OF EDUCATION RELEVANT TO THE NEEDS OF THE COUNTRY AND THE PEOPLE, WHICH SHALL INCLUDE A COMPREHENSIVE FORMAL, NONFORMAL AND INFORMAL AND INDIGENOUS LEARNING SYSTEMS, AS WELL AS SELF-LEARNING AND OUT-OF-SCHOOL STUDY PROGRAMS AND CITIZENSHIP, VOCATIONAL AND OTHER SKILLS TRAINING TO ADULT AND DISABLED CITIZENS.

(b) A SYSTEM OF FREE PUBLIC EDUCATION IN THE ELEMENTARY AND HIGH SCHOOL LEVELS."

Then insert what has earlier been approved which was the Aquino amendment:

"(c) A SYSTEM OF SCHOLARSHIP GRANTS, LOAN PROGRAMS AND OTHER INCENTIVES, WHICH SHALL BE AVAILABLE TO DESERVING STUDENTS IN BOTH PUBLIC AND PRIVATE SCHOOLS, ESPECIALLY THE UNDERPRIVILEGED.

(d) A PROGRAM OF PHYSICAI EDUCATION AND AMATEUR SPORTS DEVELOPMENT.

NO CONTRIBUTION OR EXACTION OF ANY KIND SHALL BE IMPOSED ON STUDENTS AND THEIR PARENTS OR GUARDIANS EXCEPT THOSE VOLUNTARILY IMPOSED BY THEIR ORGANIZATIONS."

If I may be allowed to explain, letter (a) will now totally combine paragraphs (b) and (d) of the committee report. Paragraph (b) will include the concept of free public education in the elementary and high school levels and, of course, with the amendment of Commissioner Aquino on the elementary education.

In the system of scholarship grants, which appears as paragraph (c), we combined this with loan programs and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged. Mr. Presiding Officer, this particular proposal is also coauthored by Commissioner Monsod. We deleted the concept of socialized fee structure in the tertiary level of state colleges and universities, and instead proposed for loan programs and other incentives for the reason that a socialized fee structure might not be adequate, sufficient and may result in discrimination. On the contrary, granting loan programs would make available education for the citizens, even those who will enroll in private educational institutions. And we give particular emphasis to the underprivileged, insofar as these programs are concerned. We also included the program of physical education and sports development to take into account Section 1 where we inserted sports. And, certainly, since education now will be free, both in the elementary and high school level, we provided that no contribution or exaction of any kind shall be imposed on students and their parents or guardians except those voluntarily imposed by their organizations.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Davide yield to just a question?

MR. DAVIDE. Willingly.

MR. OPLE. I see that Commissioner Davide has included Section (d) for his proposed amalgamations under Section 1 (a). Is that correct?

MR. DAVIDE. That is correct.

MR. OPLE. And in his amendment, the Commissioner has included loan programs.

MR. DAVIDE. That is another paragraph.

MR. OPLE. Yes, but that is paragraph (c).

MR. DAVIDE. If Commissioner Ople will notice, that particular proposal will, in effect, incorporate another portion of a separate section here.

MR. VILLACORTA. Mr. Presiding Officer, a prejudicial question.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Villacorta is recognized.

MR. VILLACORTA. Mr. Presiding Officer, while we are thankful for the efforts of Commissioners Davide and Monsod in integrating several sections of our proposed article — and we agree with most of what they are proposing — the committee feels that the issue at hand now is the system of free public education in the elementary and high school levels. We are willing to separate the issue of socialized fee structure. Since Commissioner Davide's proposal here for Section 1 is a restructuring and contains a lot of issues which have yet to be debated fully, may we propose that we concentrate on Section 1 (b) which has to do with the system of free public education in the elementary and high school levels and the compulsory nature of elementary education which has been approved.

MR. OPLE. Mr. Presiding Officer, may I join the committee in this appeal to Commissioner Davide. I have a selfish reason because when we come to Section 1 (c) and (d), as previously submitted to the committee, we have a proposed amendment concerning student loan programs based on a common portfolio established through the government financial institutions and on the "study-now, pay-later" principle.

MR. DAVIDE. Mr. Presiding Officer, I just would like to get it very clearly from the committee: Is it the thinking of the committee that we will vote on concepts first?

MR. VILLACORTA. Yes, because there are many other amendments. For example, Commissioner Padilla has an amendment on sports and Commissioners Bacani and Nieva have proposals for accessibility of education.

MR. DAVIDE. Exactly what is the stand of the committee? Shall we vote first on concept, for instance, on socialized fee structure or on whether or not we will allow free education up to the high school level?

MR. VILLACORTA. That is why we would like to vote first on (b) because that is the issue at hand, without prejudice to this restructure.

MR. DAVIDE. Mr. Presiding Officer, paragraph (b) alone includes several concepts — socialized fee structure, free education up to the secondary level.

MR. VILLACORTA. No, I refer to (b), the small letter (b) in the Gentleman's amendment.

MR. DAVIDE. I see. So what about (a)?

MR. VILLACORTA. We shall go back to that letter because what we have been discussing, like the amendment of Commissioner Rodrigo, was this issue of free public education.

MR. DAVIDE. I would have no problem with that.

MR. GASCON. Mr. Presiding Officer, the whole point is, we may be willing to accept Commissioner Davide's reformulation but since we already went into this issue on the system of free public education, perhaps we can dispose of this first and then go back to his other amendments.

MR. DAVIDE. We will finish (b) first?

MR. VILLACORTA. Yes, the Commissioner's letter (b).

MR. DAVIDE. I will have no objection.

THE PRESIDING OFFICER (Mr. Azcuna). So, for the meanwhile, is Commissioner Davide withdrawing his proposed amendment, considering that on this portion of 1 (b) of the committee report his own amendments seem to be exactly the same?

We would like to ask if there is any other proposed amendment to that.

MR. DAVIDE. I understand that the committee will take up 1 (b) of my proposal, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair has compared the committee text with Commissioner Davide's proposal on that portion and sees no difference.

MR. DAVIDE. Except for the socialized fee structure.

THE PRESIDING OFFICER (Mr. Azcuna). Yes, except that.

MR. DAVIDE. Up to the tertiary level of state colleges and universities.

MR. GASCON. Yes, because the proponent himself separated it and placed the concept of socialized fee structure in letter (c), so we shall discuss that when we go to his amendment. We are agreeable to separating the concepts first; therefore, the committee is accepting Commissioner Davide's 1 (b) for the moment.

MR. DAVIDE. It is not exactly 1 (b) because this has, in effect, been amended by Commissioner Aquino for the second sentence.

THE PRESIDING OFFICER (Mr. Azcuna). As amended, yes.

The Chair would like to recognize Commissioner Maambong.

MR. MAAMBONG. Mr. Presiding Officer, may I indicate at this point the difficulty we are facing because the sequencing of the sections is not as it should be. As a matter of fact, it was because of this that I submitted earlier the outline of the proposed provisions on education and I gave a copy of my outline to the Honorable Deputy Minister Victor Ordoñez who graciously answered me with a letter wherein he indicated an outline and a possible resequencing of the provisions. Everyone of us has a copy of that.

I would like to suggest to the committee that perhaps we could go faster, if the committee would follow the formulation suggested by Deputy Minister Ordoñez without doing any damage to the provisions as they appear now. Once these are properly sequenced, I think we can go faster. I notice Commissioner Davide jumping from one section to another, and this is because the sections themselves are not sequenced in the proper order.

The order of presentation suggested to Honorable Ordoñez is only on five parts, and if we could follow the sequence and if the committee will accept this and probably resequence the formulation of the sections themselves, we can propose our amendments on the basis of the new sequence and go very fast.

I would like to know the response of the committee to that.

THE PRESIDING OFFICER (Mr. Azcuna). May we hear the chairman of the committee?

MR. VILLACORTA. Mr. Presiding Officer, it is not true that the sequencing is not proper. I do not know what criteria were used when we say that the sequencing of our article is improper. We have our own logic here. I do not think that we just came up with a haphazard presentation without any logic in mind.

MR. MAAMBONG. I am not suggesting that, Mr. Presiding Officer. I am just saying that probably we could put it in a proper outline the way it has been suggested by Deputy Minister Ordoñez.

MR. VILLACORTA. We are open to that, except that the Gentleman's and Minister Ordoñez' proposal for sequencing is not the only such proposal. There is the proposal of Commissioners Monsod and Davide. Just to save time, we are very open to these suggestions for resequencing but we need time to do it. However, I think we should tackle the issue now at hand, which is free public elementary and secondary education.

The committee suggests to the Chair that we vote on this, unless there is no objection to the Davide amendment which the committee had accepted. After this, we can go on to the other paragraphs according to the sequence in the present article and then the resequencing can be done tomorrow. Is that acceptable to Commissioner Maambong?

MR. MAAMBONG. Yes, that is acceptable. We can still go on with the sections as they appear in the committee report but I still suggest that probably the committee could take a close look at the sequence presented by Deputy Minister Ordoñez, not that we are bound by it. It is just that it appears to be like a good suggestion. However, I would like to disabuse the mind of the committee that I am trying to say that the presentation is improper. I am just trying to put in a little bit of order in it. It is not really a disorderly presentation but I am just trying to help, Mr. Presiding Officer.

MR. VILLACORTA. The clarification is well taken. As a matter of fact, the committee itself also requested the help of Deputy Minister Ordoñez. So, we are one in our intention to improve the sequence of the committee report.

MR. REGALADO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Regalado is recognized.

MR. REGALADO. A parliamentary inquiry. For purposes of the proposed voting on Section 1 (b), is it our understanding that we shall vote on the concepts of acceptability, first, on free compulsory elementary education?

MR. VILLACORTA. Yes.

MR. REGALADO. Second, free education on the secondary level; and, thirdly, the socialized fee structure.

MR. VILLACORTA. Yes.

MR. REGALADO. With respect to the second, I understand there will be a complementary provision in the Transitory Provisions. May we have the gist of what that complementary provision is, because we are going to vote on its basic concept and the rest?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). May we have the answer of the committee first?

MR. VILLACORTA. Mr. Presiding Officer, with respect to compulsory elementary education, I think that has been decided by the body in favor of the amendment of Commissioner Aquino. Now, with respect to the gist of our proposal for the Transitory Provisions, it will be something like this: That Congress will determine when free public secondary education will be fully implemented. Of course, the wording can be improved and we shall ask the help of Commissioner Rodrigo because this basically reflects the intention.

MR. REGALADO. How about the socialized fee structure? Will there be any conditions?

MR. VILLACORTA. Could we vote on that concept later on, because that will involve a long discussion and probably we do not have the time tonight.

MR. REGALADO. So we will only have to stick to (b) for the time being?

MR. VILLACORTA. Yes.

MR. REGALADO. All right.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is recognized.

MR. DAVIDE. I just would like to modify the issues presented. It is not that we have to split the issue of free elementary education and free secondary education. I understand that the rejection of the Rodrigo amendment was, in fact, a confirmation that education shall also be free up to the high school level. The issue is whether or not education shall be free up to the high school level, not that the issues have to be split — one voting for elementary; another voting for secondary.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Maambong is recognized.

ADJOURNMENT OF SESSION

MR. MAAMBONG. Mr. Presiding Officer, there are no other Commissioners who have registered to propose their amendment at this point in time. If there is no objection from the body, I move that we adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:05 p.m.

R.C.C. NO. 75

Friday, September 5, 1986

OPENING OF SESSION

At 9:50 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Florenz D. Regalado.

Everybody remained standing for the Prayer.

PRAYER

MR. REGALADO. Almighty Father, when You created man You breathed Your own life into him. When You established a covenant with Your people, You called them into friendship with You and assured them of Your abiding presence. You established the law as a bond of love between Yourself and Your people and between each man and his community. Through law, You have brought order into the universe, and through law You have enabled each one to find his fulfillment as a person created in Your image and likeness.

As we gather here to formulate a new law as the foundation of our society, we ask You to fill us with Your spirit of wisdom and compassion, so that our work may be an instrument of Your justice and thus lead our people on their continuing pilgrimage towards the peace and freedom of our salvation.

We make our prayer through Christ our Lord. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present*
Azcuna	Present*
Bacani	Present
Bengzon	Present
Bennagen	Present
Bernas	Present*
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present*
Gascon	Present*
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Sarmiento	Present*
Suarez	Present*
Sumulong	Present
Tadeo	Present*
Tan	Present*
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present

The Secretariat is in receipt of official advice of absence of Commissioner Rosales.

The President is present.

The roll call shows 31 Members responded to the call.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 544, entitled:

RESOLUTION PROVIDING FOR SYNCHRONIZED ELECTIONS WITH A STAGGERING OF THE TERM FOR SENATORS.

Introduced by Hon. Davide, Jr.

To the Committee on Amendments and Transitory Provisions.

COMMUNICATIONS

Letter from the Honorable Salvador H. Laurel, Vice-President and Minister for Foreign Affairs, reiterating his recommendation in his letter of June 25, 1986 that the President's power to appoint "Ambassadors, other public Ministers and Consuls" be specifically provided for in the new Constitution to conform with the standard practice in international diplomacy and likewise recommend that the Constitutional Commission consider providing for a more descriptive statement of our national flag.

(Communication No. 719 – Constitutional Commission of 1986)

To the Steering Committee.

Telegram from the Christian Reformed Diaconal Assembly of Negros Occidental, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 720 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Mr. Agaton N. Ibarbia I, President, Small Landowners Association of Buhi, Inc., 42 San Jose St., San Felipe, Naga City, proposing the ejection of tenants who are also small landowners, and the ejection of landless tenants who have substantially dispossessed, impoverished, caused economic dislocation among small landowners.

(Communication No. 721 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Telegram from the Faculty and Staff of Christian Reformed Seminary and Bible College, Bacolod City, Negros Occidental, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 722 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Telegram sent by Mr. Pedro B. Cruz for the seven thousand eight hundred forty-six Nueva Ecija public school teachers, expressing support for the provision on industrialization, protectionism and economic nationalism.

(Communication No. 723 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Rev. Fernando R. Basilio of the Caloocan Bethel Assembly of God, Inc., 504 A. Mabini St., Caloocan City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 724 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Catholic Bishops' Commission on Family Life, signed by Bishop Jesus Y. Varela, 470 Gen. Luna St., Intramuros, Manila, opposing the inclusion in the new Constitution of a provision in the 1973 Constitution stating that "it is the responsibility of the State to achieve and maintain population levels most conducive to the national welfare."

(Communication No. 725 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from the Community Bible Center, P.O. Box 10, Bais City, Negros Oriental, signed by Rev. Romualdo A. Pino and sixty-five (65) others, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 726 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Ms. Henrietta T. de Villa, transmitting Resolution No. 1 of the Council of the Laity of the Philippines, First Regional Conference, Western Visayas, proposing an amendment to the Article on Education, Science, Technology, Arts, Culture, and Sports, such that "religion shall be considered as the most important subject in the curriculum . . ."

(Communication No. 727 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Ms. Emelyn Ablay and twenty other signatories, Cambagroy, Bais City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 728 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from one Beverley Symons on behalf of the Nuclear Free and Independent Pacific Coordinating Committee, P.O. Box A243, Sydney South, NSW 2000, Australia, expressing its belief that the U.S. military facilities in the Philippines represent a threat not only to the Filipinos but to all people in the Asian-Pacific region.

(Communication No. 729 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Rev. Emilia Tallo and eleven others of Aguinaldo Street, Bais City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially.

(Communication No. 730 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Atty. Samuel Matunog transmitting a resolution of the Protestant Lawyers League of the Philippines, 879 EDSA, Quezon City, proposing constitutional provisions for the protection of Filipino children, youth and mothers.

(Communication No. 731 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the faculty and students of the Community Bible School, Imugan, Sta. Fe, Nueva Vizcaya, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 732 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication jointly signed by Mr. Bernardo P. Villas and Mr. Rufino M. Espina of the Metro Dumaguete Post, Negros Oriental Chapter, Veterans Federation of the Philippines, Dumaguete City, proposing a constitutional provision urging the State to give a monthly pension to all World War II veterans at the age of sixty-three years and shall be treated as number one citizens of the Republic of the Philippines.

(Communication No. 733 – Constitutional Commission of 1986)

To the Committee on Social Justice.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF COMMITTEE REPORT NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we resume consideration of the proposed Article on Education, Science, Technology, Arts and Culture.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Human Resources will please occupy the front table.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Is the committee ready to proceed or shall we suspend the session for a few minutes?

MR. VILLACORTA. We are ready, Madam President.

THE PRESIDENT. The committee is ready.

MR. VILLACORTA. Yes, Madam President. We would like to call the attention of the body on the handouts that have been distributed today which refer to the resequencing of our proposed article based on the amendments of the different Commissioners led by Commissioner Maambong. Commissioner Guingona would like to explain this resequencing.

MR. GUINGONA. Madam President, the first page of the materials handed out this morning gives the outline of the succeeding pages which contain the text of the original provisions as contained in the committee report with amendments as agreed upon by the committee during the caucus held a few days ago. The last page includes the proposed new sections that have been submitted to this committee by Commissioners Bacani et al., Ople et al., Villegas et al., Davide and Padilla. Other amendments introduced by Commissioners Davide, Monsod, Bacani et al., Ople et al., Azcuna consist of reformulations, deletions or insertions in provisions proposed by the committee which the committee will be glad to consider during the period of deliberations.

Thank you, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. May I pose a parliamentary inquiry. Does it mean that the proposed new sections in the last page of the handout are already acceptable to the committee?

MR. GUINGONA. No, we have just included these to facilitate the review by our distinguished colleagues. Thus, the committee will react to the amendments as presented. Incidentally, we have just received an additional amendment by Commissioners Tingson, Alonto, Uka, Davide, Sarmiento, Suarez, Villegas, Rama and Padilla regarding the inclusion of the lives of our national heroes. This is an insertion and is actually not a new provision. But there is a new provision which says: "TOWARDS THIS END, CONGRESS MAY BY LAW PROVIDE FOR COMMON TEXTBOOKS FOR COMMON SUBJECTS ON UNIVERSAL SPIRITUAL VALUES." This is authored by Commissioners Tingson and Davide.

We are sorry we were not able to include this amendment because this was just handed to us this morning.

MR. MAAMBONG. In other words, these proposed new sections are not exclusive of other amendments which may already be in the possession of the committee or may hereafter be presented before the committee.

MR. GUINGONA. Yes.

MR. MAAMBONG. Thank you.

MR. VILLACORTA. So, Madam President, we are now ready for amendments and interventions from our fellow Commissioners.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 10:08 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. VILLACORTA. Madam President, we would like the body to discuss the concept of a socialized fee structure as contained in Section 1 (b) of the first page.

The idea of a socialized fee structure is to require students who can afford to pay the full tuition to do so, while those who cannot afford to pay by reason of financial disadvantage shall be granted the full extent of State subsidy.

If our fellow Commissioners have questions on this concept, Commissioner Gascon, who has done studies on this, will be available to answer questions.

MR. COLAYCO. Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Who is going to determine the parents who can afford?

MR. VILLACORTA. Can Commissioner Gascon answer that question?

MR. GASCON. Since this speaks of direct State subsidy to students in whatever form it may take, then it is the State that shall determine the levels of subsidy, as well as the level cut-off of those who can genuinely afford to pay the full amount.

MR. COLAYCO. Would this principle cover also the Protestant or Catholic private schools?

MR. GASCON. As the amendment is now presented, it would only be covered in tertiary state colleges and universities.

MR. COLAYCO. That is being observed in the University of the Philippines right now.

MR. GASCON. That is not true. It is a proposal right now, but it is not yet being implemented. It is being implemented at present in the Philippine Science High School.

MR. COLAYCO. Not in the University of the Philippines?

MR. GASCON. Not yet.

MR. COLAYCO. But this is only for state-owned schools?

MR. GASCON. That is correct. The situation why it is directed to state-owned schools is because of the competition involved in entering state colleges and universities, particularly in the University of the Philippines. The situation at present is that more and more students who are entering, let us say, in UP come from the upper classes – from those who can genuinely afford. These people who can genuinely afford even more than what they are paying at present are easing out the poor students who find it difficult to enter UP. So, the idea of the socializing of fees in state colleges and universities is that these rich people who can afford higher full cost will pay in full the cost to the state colleges and universities so that the subsidy which they are receiving at present, since they are paying very low tuition, will accrue to the poor who will be allowed to enter the state colleges and universities because at this point in time the taxes of the citizens – we all know that the majority of the Filipinos are poor – are being used to subsidize state colleges and universities. So what occurs is that the poor are subsidizing the rich in state colleges and universities. What we would like to do is to respond to this socializing of fees and provide greater opportunities for the poor to continue tertiary education. The principle is that assuming that we have the capability to continue tertiary education, our education should not be primarily based on our inability to pay and that the State should provide opportunities for us to continue our education despite our inability to pay.

MR. RAMA. Madam President, I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We have discussed this matter in the period of interpellations, and I agree with the interpretation of Commissioner Gascon. My problem is that the way it is stated could mean that the tuition levels will be socialized per se. In other words, the interpretation being given by certain sectors with respect to the University of the Philippines is that the tuition should be kept low. In that case, we would not be following the spirit of what Commissioner Gascon said that the intent of this section is really to charge as close or as near the full cost as possible and then come back on the other side and subsidize the poor so that the rich would not benefit from a low tuition. They would pay the high rate. As I understand it, that is the intent of Section 1 (b).

MR. GASCON. Yes. Basically, the intent is, in state colleges and universities, as far as the socialized fees are concerned, they will be charged according to their ability to pay.

MR. MONSOD. That is right.

MR. GASCON. So, if a student is rich, then he pays what he can pay and if a student is poor, he will be charged what he can pay.

MR. MONSOD. Yes. What I am saying is that there is no difference in our approach, in our objective. It means that the tuition will be pitched at full cost or near full cost and the assistance will be directly to students. If that is indeed the intent of the committee, then that is already covered in Section 2 (c). Eliminating Section 2 (b) would avoid misinterpretation that the tuition itself should be lowered, in which case the rich would even benefit. But if we go to Section 2 (c) right away, then that is where the idea that the incentive would go to students who are deserving especially the underprivileged and would preclude the interpretation that the tuition, in general, should be lowered, in which case the rich would also benefit.

MR. GASCON. It is not the intent that tuition fees in state colleges and universities should be purposely lowered. The intent is clear.

MR. MONSOD. I know.

MR. GASCON. We have already agreed. However, the Commissioner has referred to Section 2 (c), which actually speaks of other support mechanisms for poor and deserving students like scholarship grants, loan programs and other incentives.

MR. MONSOD. Yes, which would have a wider coverage that will include subsidy for tuition and everything else but it is limited to deserving students, especially the underprivileged, and it completely eliminates the possibility of interpreting Section 2 (b) to mean also benefits to those who can afford. Perhaps Section 2 (b) may no longer be necessary. However, if needed, we can use Section 2 (c) and we can expand it as we wish because this section leads to some problem of interpretation.

MR. GASCON. I have no problem in combining Sections 2 (b) and 2 (c). However, I would like to state for the record that in my opinion, Section 2 (c) does not cover the intent of Section 2 (b) because the former speaks of scholarship grants, student loan programs and other incentives while the latter speaks of direct subsidy to poor students which cannot be considered as loan programs nor scholarship grants.

MR. MONSOD. Yes.

MR. GASCON. This is direct subsidy. If that concept is included in Section 2 (c), then we will have no problems because essentially we agree on the intent.

MR. MONSOD. Why do we not just add the words "AND SUBSIDIES" to Section 2(c) so as to read: "other incentives AND SUBSIDIES"? That will take care of it.

MR. GASCON. If that will be the case, what would occur actually is that if we add "and subsidies" in Section 2 (c) this would expand the original concept which we propose in Section 2 (b) because this particular section speaks only of state colleges and universities where poor students will be given direct subsidy and the rich will have to pay the full cost of their education. I would be happy if we put this phrase in Section 2 (c), because what would happen is that even students in private schools who are poor will also be given subsidy by the State.

MR. MONSOD. I agree with the Commissioner because then we are giving the students freedom to choose, and this upgrades the entire system since even private schools will have to improve their quality in order to attract the students. This would contribute to their viability. The students themselves would have the freedom of choice. And my own feeling is that quality education is not only available in public schools but also in private schools.

MR. GASCON. That is correct.

MR. MONSOD. Therefore, if we expand the coverage, we are really helping the underprivileged and improving the entire system. So, I am with the Commissioner in expanding Section 2 (c).

MR. GASCON. So, the intent that the Commissioner wishes to express is that when we speak of "socializing fees" we provide subsidy to the poor which should not only be in public schools but also in private schools.

MR. MONSOD. We are subsidizing the poor regardless of where they go.

MR. GASCON. That is correct. So, we are expanding the concept of socializing not only for the public state colleges and universities but the private schools as well.

MR. MONSOD. Yes.

MR. GASCON. The students will be very happy with that because there are quite a lot of poor students in private schools.

MR. MONSOD. That was my proposal in the interpellation. If we adopt that philosophy, then we do not need subparagraph (b). All we need to do is add a word or two in subparagraph (c).

MR. GASCON. So long as the intent is not lost, we will accept any amendment to that later on.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized because he stood up first.

MR. PADILLA. Paragraph (b) refers to tertiary level of education?

MR. GASCON. Yes.

MR. PADILLA. That means colleges and universities. There has always been some stress on those who can afford and those who cannot afford. Should not tertiary education be confined to honor students with aptitudes, with talents, with good records rather than whether they are rich or poor? I understand there are science high schools wherein the students are the honor students from the different high schools throughout the country and the advanced students who qualified by examinations. These science high schools have a much higher level of education and instruction over the ordinary provincial or city high schools. If we have this kind of distinction or, at least, greater opportunity for the brighter students to pursue higher education, should not this tertiary level of education be encouraged for the talented students with more aptitude for liberal education?

MR. GASCON. Yes.

MR. PADILLA. Those who may not have as much talent or probably fail to display such talents through hard work should be encouraged instead to enter vocational or technological schools rather than making it general for all students, rich or poor, to pursue higher education.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I would like to respond to that.

What we are saying here is that there is a vicious cycle in our education system that the poor start from very inadequate fundamentals and, in fact, even in the science schools, like the Philippine Science High School, Manila Science High School and so on, the entrance hurdle is different for those coming from urban schools as compared with those who are coming from rural schools.

A couple of years or just last year, the hurdle rate was 60 percent for those coming from urban schools or Manila and 44 percent for those from rural areas, precisely, to give recognition to the fact that there is this vicious cycle and we have to do something special to change the whole structure of our society and to give special incentives to those who are disadvantaged in life.

What we are saying here is that referring to the merit system, the poor have already a disadvantage. As long as the poor students can earn a grade and do not have to be outstanding, then they should be given the subsidy. The rich who have already an advantage even in fundamentals from the beginning, can be given honorific citations. They can belong to honor societies. That, I think, is enough but the actual subsidy should be given to the poor, because we are trying to change something fundamental and structural in our society.

MR. GASCON. Thank you, and I would like to add something.

When we speak of tertiary education, the first assumption is aptitude, because they would need such an aptitude to continue four years of tertiary education.

This is just to cite the situation: Out of 750,000 students who took the NCEE, 50 percent were from the P500-and-below income bracket. Those from this monthly income bracket of P500 and below scored above the median which means that those who can enter college constituted 13 percent above the mean, or a total of 97,555 students.

From this same monthly income bracket of P500 and below, those who scored within the 90 percentile and above constituted about 1.73 percent of the total number of examinees, making a total of 12,975 students. Yet they have the necessary high level of excellence and aptitude to continue tertiary education. However, the ratio of the probability of these 12,975 students to continue four years of tertiary education is very low. In the long run, they may have to drop out because of their incapability to pay. So, what will happen to these 12,975 students who belong within a percentile greater than 90 percent, yet because of their low income level cannot continue tertiary education? These are the students in which a socialized fee structure, or whatever term the Commissioner wishes to call it, seeks to address.

MR. RAMA. Madam President, may I ask that Commissioner Regalado be recognized.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. I am more concerned about this socialized fee structure. If it should be adopted, what would be the specific mechanics in determining the fact of the stratum entitled to this subsidy?

About a number of years ago, I received a letter from the University of the Philippines asking me to submit a copy of my income tax returns for that purpose. I believe that that is not only an unlawful way of inquiring into our economic status, but also inaccurate. So, what does the committee envision on the actual mechanics or the implementation of the socialized fee structure?

MR. GASCON. There could be many ways to implement this. It could take the form of giving direct subsidy to each student. Students are given based on their income bracket a certain amount of money considered as a direct subsidy which they will use to pay. It could not be in a form of a loan, a scholarship grant, or other incentives. That is one.

Second, based again on their income, it could also be a graduation of the tuition fees which are demanded from them. So if the student is from the P100,000-and-above annual income bracket, he will be charged a larger amount for the same number of units as compared with a student who comes from a P13,000 or P20,000 annual income bracket. To be more specific, this could probably be done in state colleges and universities. Just for the record, I could say that the Philippine Science High School, a government-owned school, has been implementing a scholarship scheme which resembles our proposed socialized tuition fee scheme. It is hinged on the principle that the wealthier students get less subsidy, whereas the poorer ones get more. There are five different levels of scholarships applied to different income brackets.

How does the scholarship scheme work? The school asks for the gross or net income of the family depending on whether their sources of livelihood are fixed or not. They then deduct the cost-of-living expenditures from the income declared. These are called allowable deductions. If the remaining amount is equal to zero or less, then the student is entitled to the highest subsidy and privileges allowed by the school. If the remaining amount is greater than zero, meaning, after all the possible cost-of-living expenditures and deductions a portion of their income still remains, this residue is compared with varying ceiling rates which are the point levels of the scholarship grant.

The socialized tuition fee scheme is more comprehensive than the usual scholarship grant because it gives subsidy to varying levels of income, not just to students in the lowest bracket. It can be applied to other state universities. The point that we are making is that the richest student will be paying the full cost of education should their income bracket show this. So, the basic practice can be varying in different situations. We leave it to Congress; we leave it to the implementing procedures of the Ministry of Education, Culture and Sports based on the particular consideration in the locality, but the principle of providing subsidy to the poor as against not providing subsidy to the rich in tertiary education is what we are trying to establish here.

MR. REGALADO. The socialized or subsidized form that the Commissioner has been talking about, however, presupposes and is based upon a prior requirement of competitive entrance examinations. Is that correct?

MR. GASCON. Yes, especially when we speak of tertiary education, for we know for a fact that not everyone can be competent to continue tertiary education.

MR. REGALADO. And the University of the Philippines, to use the tertiary level as a basis, has only a particular number of slots available for this purpose.

MR. GASCON. What does the Commissioner mean?

MR. REGALADO. Just a certain number will be admitted.

It is only in the College of Law wherein so many will be admitted.

MR. GASCON. Yes, the UP administration has quotas for certain specific degree courses.

MR. REGALADO. Therefore, what is taken into consideration is not only the fact that the student belongs to a certain financial level, but also his capacity or competence and also a student's entrance examination which would serve as a predictor of his academic success, should he be permitted to enrol in the University of the Philippines.

MR. GASCON. That is assumed since we speak of tertiary education. The whole point is that we make sure that those who come from the poor sectors will be able to continue tertiary education considering all of the costs of education.

MR. REGALADO. If we follow the proposal of Commissioner Monsod that this same subsidy be extended also to private schools under the same arrangement of competitive examinations, does the Commissioner think that our government will be in a position to also subsidize private schools?

MR. GASCON. The Commissioner should direct that question to Commissioner Monsod.

MR. MONSOD. I would like to make the distinction that these incentives and subsidies under subparagraph (c) are for the students, not for the school.

MR. REGALADO. So that provision would be applicable to both public and private schools.

MR. MONSOD. It would be applicable to all students who are deserving or to the underprivileged regardless of where they are going.

MR. GASCON. That is the intent of the amendment of Commissioner Monsod.

MR. REGALADO. If we therefore eliminate subparagraph (b), then we could just incorporate the word "SUBSIDY" in subparagraph (c) to apply to all students.

MR. MONSOD. Yes.

MR. GASCON. That would, therefore, expand the concept in subparagraph (b) which was limited to state colleges alone. But if we now put it in subparagraph (c) and just use the word "SUBSIDY," it would also accrue to the poor and the underprivileged students in private schools.

MR. REGALADO. I am particularly interested in that, because I notice from the report of the Ministry of Education, Culture and Sports that for the school year 1984-1985, there were only 137,724 enrollees in government tertiary schools; whereas in private schools, there were 972,730 enrolled in the tertiary level. That is only a 78-percent report. So it would seem that almost a million college students are actually enrolled in private schools, whereas in government schools, there are only 137,724 and that should be taken into account when we talk about subsidies and the transposition of subparagraph (b) to be incorporated in subparagraph (c). We should think not only in terms of the financial outlay involved but also of the population of the different sectors, public and private.

Thank you.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. Madam President, let me just say that I would highly caution the body against the use of a very technical phrase called "socialized pricing" because it is fraught with a lot of technical complications. Let me say that the most well-known use of socialized pricing is with electric rate and it is very easy to apply it to the billings of MERALCO or other electrical power companies, because automatically any family that uses less than 100 kilowatt hours a month is charged 12 centavos per kilowatt hour. Then, as the kilowatt consumption goes up, the rate is increased. It is very easy to assume that any family that uses less than 100 kilowatt hours a month must be a family that has only several bulbs and definitely does not even have a refrigerator or could not possibly have an air-conditioning unit so we do not get into all sorts of technical questions on who is poor, who is of the middle income and who is rich. Therefore, I find it very difficult to apply to the operation of a university. It is better to use a generally understood word like "subsidy" and then later on we can also talk about scholarships and grants, rather than get into that very technically complicated concept called "socialized pricing" or "socialized fee structure."

MR. GASCON. Thank you.

May I ask a question? With regard to the principle and the intent of what we are trying to say, does the Commissioner think that it is . . .

MR. VILLEGAS. It is indispensable in the Philippine social structure, definitely. We have to subsidize the children of the underprivileged so that they can go to tertiary education. There is no question about the indispensability of the objective of the provision.

MR. GASCON. That is what we would like to stress – the intent of the term and that we do not have fixation for the term, so long as the intent is clear to all. The original proposal was in state colleges and universities because we believe that it can be implemented much faster in state colleges and universities because of the subsidy accrued already to the state colleges at present. What we are trying to do now is to actually rationalize the subsidy already given to state colleges and universities, instead of equalizing it to all students who enter the state colleges and universities whether they come from the rich or from the poor. What we are trying to say now is that the subsidy should be greater for the poor. And the assumption is, since they are already studying in state colleges and universities, these people who come from rich families, let us say, the upper 10 percent of the Philippine society, do not need direct subsidy from the State anymore because they are already enrolled in the schools. So, what we wish is to transfer the subsidy that they are receiving at present to the poor so there could be more poor people who could enter the universities.

An example of this was done in UP in the 1960s. During those years there used to be an automatic acceptance of valedictorians and salutatorians from all schools, both public or private. In this case, we had a high level of excellence because these were the valedictorians and salutatorians. But we should also have an equalizing factor because most of our high schools are public. Hence, there was an equalizing factor done before; but because of the competitive examinations now, those who come from private schools and from urban centers usually ease out even the highly intelligent public school students simply because of the quotas set in tertiary education.

MR. VILLACORTA. Madam President.

THE PRESIDENT. The chairman of the committee is recognized.

MR. VILLACORTA. There have been sufficient discussions on the subject. The way the committee sees it, there are two concepts that we should vote on: First is the matter of subsidies for poor students at the tertiary level, and second is the question of whether these subsidies should apply to both public and private colleges and universities.

MR. GASCON. Yes.

REV. RIGOS. Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I state my original motion so that we can vote on it. My motion is to delete subparagraph (b) and to insert the words "AND SUBSIDIES" after the word "incentives" in subparagraph (c).

MR. GASCON. Just to clarify further. When the Commissioner makes the motion to delete, does that not necessarily mean that he is making the motion to delete the intent of subparagraph (b)?

MR. MONSOD. What I want to delete is what this subparagraph means. This means that "tuition must be automatically low" and this is capable of being interpreted by putting the words "AND SUBSIDIES" in subparagraph (c). We retain the intent and avoid the confusion on tuition fees.

MR. GASCON. The issue here is that we agree on the intent that subsidy be given to the poor students on indigent levels.

MR. MONSOD. Yes, to the students rather than to schools.

MR. GASCON. So, the issue really is that we subsidize based on the ability to pay.

MR. MONSOD. Yes.

REV. RIGOS. Madam President.

THE PRESIDENT. So, the proposed amendment of Commissioner Monsod would be: "Maintain a system of SUBSIDY, a government subsidy . . ."

MR. MONSOD. No, it would read: ". . . maintain a system of scholarship grants, student loan programs, and other incentives AND SUBSIDIES which shall be available to deserving students in both public and private schools, especially the underprivileged."

THE PRESIDENT. Will the Commissioner not be in favor of putting the word "SUBSIDIES" ahead first?

MR. MONSOD. I would really prefer to put "grants" and "loans." We can put it after the word "programs." So, it will read: ". . . maintain a system of scholarship grants, student loan programs, SUBSIDIES, and other incentives which shall be available to deserving students."

THE PRESIDENT. What does the committee say?

MR. VILLACORTA. The committee accepts the proposal.

MR. MONSOD. Thank you.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. I submitted a similar proposal and may I just add that it should be explicitly said that it should be "in both public and private schools AT ALL EDUCATIONAL LEVELS." In other words, it includes elementary, high school and tertiary levels.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I proposed it and I just wanted to make a comment that I would rather be silent about it and let Congress decide, as the resources of the State allowed because if we put "at all levels" right away, it might be interpreted as a mandate to immediately institute a massive program when we may not still be adequate at the tertiary level. Anyway, if we are silent about it, it gives Congress the flexibility.

BISHOP BACANI. Provided there is an openness to that.

MR. MONSOD. Yes.

BISHOP BACANI. Yes. I am agreeable to that.

Thank you very much.

MR. VILLACORTA. Commissioner Quesada would like to ask for a clarification before we vote on the matter.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Commissioner Monsod, when we encompass the concept of subparagraph (b) on socialized fee structure, and we cover it in subparagraph (c), would this refer to tertiary level of education?

MR. MONSOD. As I answered Commissioner Bacani, the way it is stated, it would even cover beyond that. But by putting it in general terms, it is up to Congress to determine the priorities. But certainly, the tertiary level is definitely covered. It might even go beyond that, depending on Congress.

MS. QUESADA. So, the Commissioner would want to have the formulation retained.

MR. MONSOD. Yes, we just add "SUBSIDIES" so that Congress has enough leeway.

MS. QUESADA. Thank you.

MR. GASCON. And when we speak of subsidy, it would be in generic term.

MR. MONSOD. Yes.

MR. GASCON. It would take different forms: either direct giving of money or discounts, et cetera.

MR. MONSOD. Or invoices or coupons.

MR. GASCON. That is correct. Secondly, as I said in the beginning, when we speak of ability to pay, that means on a graduated level.

MR. MONSOD. Yes, and we are not referring only to tuition fees. We might even give some books to those who are really poor.

MR. GASCON. Yes. So what we mean is that the poor will be given subsidy but those who come from the middle class who find it also difficult to pay, will receive some forms of subsidy, but in different forms perhaps.

MR. MONSOD. Yes.

MR. GASCON. We agree totally with the Commissioner's amendment.

MR. RAMA. Madam President, the amendment of Commissioner Monsod has been accepted. May I move that we take a vote on that.

MR. VILLACORTA. Unless there is no objection.

MR. RAMA. There is no more objection.

MR. GASCON. Bishop Bacani who made a similar proposed amendment should be considered a coauthor.

MR. VILLACORTA. Also, Commissioners Nieva and Guingona.

VOTING

THE PRESIDENT. As many as are in favor of the proposed amendment of Commissioner Monsod and others, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 33 votes in favor, none against and no abstention; the proposed amendment is approved.

MR. VILLACORTA. Madam President, the next concept is the promotion of physical education and sports programs, and Commissioner Padilla has two amendments for this particular paragraph.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, I would suggest that paragraph (d) retain the first two lines: "Promote physical education and sports programs for the total development of a healthy and alert citizenry." We eliminate the rest of paragraph (d) because I have submitted to the committee a separate paragraph at the end of the article entitled "SPORTS." It reads: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY. ALL SCHOOLS, COLLEGES AND UNIVERSITIES, PUBLIC AND PRIVATE, SHALL UNDERTAKE REGULAR SPORTS ACTIVITIES, ATHLETIC COMPETITIONS IN ORGANIZED LEAGUES, FROM BARRIO, MUNICIPAL, PROVINCIAL, REGIONAL TO NATIONAL SPORTS PROGRAMS.

"THE PROMOTION OF AMATEUR SPORTS, AS DISTINGUISHED FROM PROFESSIONAL PLAYERS, SHALL BE PROVIDED BY LAW, INCLUDING THE TRAINING OF NATIONAL ATHLETES FOR ASIAN AND WORLD OLYMPIC GAMES."

In other words, with this proposal of a separate paragraph on sports at the end of the article, we can delete lines 20 to 23 of the Article on Education.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

May the honorable Vice-President yield to a few questions?

MR. PADILLA. Very gladly.

MR. SUAREZ. Thank you.

We know the Commissioner's background as a national athlete, but this proposal he has submitted is not a typical Padilla vintage, because it is elaborate and I know him to be a strict constructionist when it comes to the framing of constitutional provisions. I am a little bit surprised.

Does not the Commissioner believe that the phrase appearing on lines 18 and 19, which reads "promote physical education and sports programs for the total development of a healthy and alert citizenry," embraces all of the things he has been kind enough to submit for the consideration of the Commissioners? I would like to add also that I agree with the Commissioner that lines 20 to 23 should be deleted and that we just stick to lines 18 and 19.

MR. PADILLA. In addition, we have a separate subsection on sports.

MR. SUAREZ. Yes, but when we speak of physical education and sports programs, that is all-embracing.

MR. PADILLA. Maybe, but very few understand that. For example, line 23 mentions "the curricula," but that is not enough to insert in the curriculum units for physical education. There must be what I mentioned in my proposal: "REGULAR SPORTS ACTIVITIES, ATHLETIC COMPETITIONS IN ORGANIZED LEAGUES . . ."

I am surprised why the Commissioner says that my proposal is not a Padilla vintage; everyword of it is Padilla's.

MR. SUAREZ. I said it is not a typical Padilla vintage.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. PADILLA. So many people do not understand what sports development is. It is not enough to insert few units in the curriculum. Sports is developed by competitive athletics in the field, not only inside the classroom.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. We agreed an hour or so ago that we will discuss and just approve the concepts. So, if the two Gentlemen, together with the Members of this Commission, are in agreement that we will put the concept as articulated by Commissioner Padilla, then the committee can put the language. The members of the committee can come back and present the language to us. That is the time we will discuss the language and the details by amendment.

MR. SUAREZ. I will agree to that procedure.

MR. PADILLA. I have no objection to further discussing my proposal as a separate paragraph at the end of the Article on Sports, if some want to question the words that I have submitted for consideration and approval by this Commission.

MR. VILLACORTA. The committee is amenable to having a separate paragraph for sports.

Commissioner Quesada would like to ask for a clarification.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Thank you, Madam President.

In Commissioner Padilla's proposed amendment, did he consider that these efforts of developing sports would go beyond the school system and would even cover the efforts of municipalities, cities and the localities to promote a healthy and alert citizenry?

MR. PADILLA. No, it is within the school program. We have some barrio schools, then primary, elementary, high schools and even state colleges and universities and my proposal is not only for public but also for private schools, and this is not outside the scope of education.

MS. QUESADA. In our present formulation, line 10 says: "Towards this end, the State shall provide opportunities for participation involving all sectors." This particular line would cover the efforts outside of the school system, because we believe that there are also opportunities for developing sports even outside the school.

Our inspiration here is the observation that many of our local government units do not provide adequate space for sports so much so that basketball courts are established on streets and children actually expose themselves to the hazards of vehicular accidents. This may be due to the fact that municipalities or cities do not give stress in the development of these sports in our localities. So, this will be a trigger for legislation, and that it will be the responsibility of the State now to create opportunities and facilities for developing sports.

MR. PADILLA. I understand that we cannot have baseball diamonds even in the barrios, or in the primary or elementary schools, but there are some provincial baseball diamonds in cities selected as sites of interscholastic games. Also it is regrettable that we had in the past so many baseball diamonds in Manila like the Nosaleda Park, the Alunan Park, the Osmeña Park and the Harrison Park. We had also in the trade schools and even in the different universities.

But, unfortunately, at present we only have the Jose Rizal Memorial Baseball Diamond. That is why we used to beat Japan in baseball during the time of Bertulpo as pitcher and Platon as catcher. But now we could not even beat the other countries that never had the baseball experience we had, which was introduced and strengthened by the Armed Forces of the Philippines in Port Mills Fort (Corregidor), McKinley, Camp Stotsenberg, et cetera.

To develop sports, we must have adequate and more sports facilities. Thus, we cannot develop swimming if our youth are allowed to swim only in our rivers or beaches; we must have swimming pools.

With regard to basketball, it is so popular that even in the absence of basketball courts, we have our young people playing in the streets, as we have observed.

But the point is that we used to have interscholastic games among the public schools and we used to have the PRISAA among the private schools. But there have been attempts in the Bureau of Education before to even suspend or even eliminate these sports competitions. We cannot develop sports by merely providing physical education in the classroom. Sports is essentially competitive and it must be judged by actual performance. An example of the most important athletic event is track and field. Our first participation in the World Olympic Games in 1924 was only in running, represented by Nepomuceno with only one official, Dr. Ylanan. However, we gradually increased our deserving athletes as participants in subsequent Olympic Games.

On one occasion, I mentioned the immortal names in amateur athletics of Simeon Toribio; in swimming of Scout Teofilo Ildefonso and Miguel White; in boxing, we had the father and son, the two Villanuevas and many others, but these must be based on actual competitions in regular leagues like the PRISAA and the interscholastics and then they go to the national aspect under the then Philippine Amateur Athletic Federation (PAAF). From these selected athletes, whose talents are based on actual performance, especially in individual events, it is not a matter of having, say, gold medals in an invitational league, like the Southeast Asia, because an athlete may be the first among four competitors. *"En el reino de los ciegos, el tuerto es el rey."* Their performances must approximate or even surpass time records. In individual events like swimming, a competitor must have a time record as in other individual events, like in track and field. In team events like basketball, football, etc., they must have teamwork, but not the individual records of time and distance. Hence, the Olympic motto is, *"citius, altius, fortius,"* which means: *citius* – faster, *altius* – higher and *fortius* – stronger, all based on personal performance and individual records.

That such situation is even in the invitational league known as the Southeast Asia, which excludes Japan, excludes South Korea, excludes China or even Taiwan, is limited to Indonesia, Thailand, Malaysia, Singapore, Hongkong, and then the less Burma and sometimes Brunei. Our athletic performance has so deteriorated that we only come third or fourth, whereas in the past, before World War II, particularly in basketball, the

Philippines was always Number 1 in all Asia, repeatedly winning over Japan, Korea and Taiwan, because for sometime, China did not participate.

These are the actual performances in the field of competitions. And if we must develop sports, we have to develop athletes and discover potential talents from our students as early as in the elementary, gradually increasing their proficiency in provincial, regional and national competitions. That is the reason why I had to give some specifics in two simple sentences, which are definitely not lengthy; namely, regular sports activities and athletic competitions in organized leagues from barrio, municipal, provincial, regional to the national level. I also mentioned the promotion of amateur sports. I want to distinguish it from professional players, like the black Americans in the professional basketball players. In my opinion that does not do very much incentives. In fact, it denies incentives to many of the students who can be good athletes, and perhaps attain the goal of all student athletes to be a member of the national team for competition in the Asian Games which was then called Far Eastern Games and the World Olympic Games.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. I think the Commissioner has benefited greatly from the dissertation of Commissioner Padilla on the Article on Sports and on the concept that he is trying to inculcate in each one of us. Hence, we are ready to vote on the proposal, so that the committee can, in turn, provide the necessary language.

THE PRESIDENT. The Vice-President was explaining the rationale for having these second and third paragraphs of his proposed amendment.

What does the committee say on this proposed amendment of Vice-President Padilla?

MR. VILLACORTA. Madam President, we are accepting the proposal of Commissioner Padilla, and we shall harmonize the sense of his amendment with ours.

VOTING

THE PRESIDENT. So, the committee accepts. We now put it to a vote.

As many as are in favor of Commissioner Padilla's proposed amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 35 votes in favor, none against and no abstention; so the amendment is approved.

MR. DE LOS REYES. Madam President..

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. May I just place on record that in voting for the Padilla amendment and its laudable and noble concept, I would like to suggest the following wordings which I will not ask him to accept or reject: "ALL EDUCATIONAL INSTITUTIONS, PUBLIC AND PRIVATE, AS WELL AS ALL GOVERNMENT UNITS, SHALL ADOPT SPORTS PROGRAMS AND UNDERTAKE REGULAR SPORTS ACTIVITIES, AND HOLD ATHLETIC COMPETITIONS. THE STATE SHALL, BY LAW, PROMOTE AMATEUR AND PROFESSIONAL SPORTS, AND TRAIN NATIONAL ATHLETES FOR INTERNATIONAL COMPETITIONS."

THE PRESIDENT. It is just a recommendation because the Padilla amendment has already been approved.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. May I be permitted to just explain a little?

The phrase "INTERNATIONAL COMPETITIONS" is not satisfactory because any invitational athletic competition is international. For example, a ping-pong player, now called table tennis player, is invited to Hongkong or even bowling players – we have very good bowlers who are sometimes of world standard. The moment there is competition – with Filipinos going abroad or other players coming to the Philippines to participate, for example, the Philippine-Columbian tournament on tennis, and there were a few players from Hongkong and others – that is already an international competition but that is not the standard. The highest recognized regional competition is the Asian Games or the loftiest ambition is to participate in the World Olympic Games. So, while the words "INTERNATIONAL COMPETITIONS" may cover these two concepts, it has a much wider scope because although any competition wherein Filipinos play against other foreigners may be international competitions, that is not the objective of the State in training athletes, for those are intermittent, periodical, incidental competitions among athletes or players of the Philippines with other neighboring countries. My concern – as everybody should have that concern – is for a student-athlete in amateur sports to exercise not only self-restraint, discipline, obedience to training rules to attain maximum excellence in their respective sports to be able to qualify as a participating athlete of the Philippine national team in the Asian as well as World Olympic Games.

MR. BENNAGEN. Madam President, I do not know if this is in order, but may I suggest to the committee, and perhaps even to Commissioner Padilla, that in the final formulation of the proposal, two points should at least be considered: 1) to concentrate on areas that are more suitable to the limitations of the Filipino physique; and 2) to consider also the development of Filipino games, like sipa and Filipino martial arts. There is a growing body of literature on these and there is a feeling that this is a neglected aspect of the development of games in the Philippines.

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. Madam President, in making that suggestion, I was just thinking that it would be unseemly on our part to constitutionalize the Asian and Olympic Games and I thought that in suggesting the phrase "INTERNATIONAL COMPETITIONS," which is comprehensive enough to include among others the Olympic and Asian Games, I was doing the amendment a favor. But if Commissioner Padilla insists on constitutionalizing the Asian and Olympic competitions, I am not really sanguine about it.

THE PRESIDENT. We leave that to the committee. May I ask the chairman?

MR. RAMA. May I ask, Madam President, that we go to the next concept, the controversial one.

MR. VILLACORTA. The next concept, Madam President, is the comprehensive approach to education that will coordinate formal, nonformal, informal and indigenous learning systems.

THE PRESIDENT. Who desires to speak or to explain?

MR. VILLACORTA. Commissioner Rosario Braid, Madam President, will elaborate on this.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. This provision recognizes the need to link formal schooling with the nonformal and informal sectors, the concept of the schooling society, the concept of providing education for out-of-school youth, continuing life-long education for adults, the concept of encouraging the development of culturally appropriate learning systems, the concept of encouraging what we call learner-oriented systems; that is, we encourage independent studies or self-learning. We have heard that there are many pupils who are deprived of schooling because their schoolrooms had been taken over. So, I think, we should encourage other delivery systems to reach these schoolchildren who have been the victims of military or other insurgency forces. And so, we hope that the State through Congress would be able to allocate resources for the promotion of nonformal education.

Madam President, in the past, although we deplore, for instance, the average of P500 per elementary school student or P1,000 per secondary school student or P5,000 per tertiary school student, the allocation for nonformal education is P14 per out-of-school youth. To date, there have been about 4.5 million students who have dropped out of school; about 3.5 million have been reached, but the facilities are deplorable because of lack of resources.

We have noted that many of the dropouts in Grade IV have to be reached continually. We need to continually provide literacy programs for the adults especially since we consider literacy very important in the electoral process.

So, this is the spirit of this particular provision, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I address a few questions to Commissioner Rosario Braid.

I know that some of these concepts were discussed during the period of interpellations. I just would like to ask a few questions for clarity and for me to vote intelligently.

This section contains many concepts like formal, nonformal, informal, indigenous, self-learning, independent, out-of-school study programs. First, may I know from the honorable Commissioner the meaning of formal education? Let us start with formal education.

MS. ROSARIO BRAID. Yes. Formal education means schooling. What we have been discussing the past three days is about schooling within the four walls of the classroom.

MR. SARMIENTO. What do we mean by the word "nonformal"?

MS. ROSARIO BRAID. Nonformal schooling refers to those given in a workplace, factory or shop, which is really the upgrading of skills of the worker or the laborer.

MR. SARMIENTO. What about the word "informal" as distinguished from "nonformal"?

MS. ROSARIO BRAID. Informal is education in the home, in the church, the mass media and the other community associations and organizations.

MR. SARMIENTO. Then, what are indigenous learning systems?

MS. ROSARIO BRAID. Commissioner Bennagen has done a lot of studies in the Cordilleras and has found out that there are many ways or methods within our cultural groups that are worthy of preserving and building, because we admit that we have to start where they are and these are the learning systems that we have to preserve. Commissioner Bennagen might want to say a few words.

MR. BENNAGEN. Let me add a bit of information on the concept of indigenous learning system.

There is a movement in Asia particularly in Southeast Asia of which we are a participant through the INNOTECH. What is INNOTECH?

MR. VILLACORTA. It is the regional center for educational limitations and agriculture.

MR. BENNAGEN. Yes, of which we are a member. We seek to redefine the Asian educational system by going back to our traditions because the assessment is that we have been too Western-oriented. We have produced an educational system that seeks to replicate the values of the West, and the feeling of this organization, which is headed by education ministers of ASEAN countries, is that we must go back to a rediscovery of what we have as a people. So, there is now an ongoing comparative study, cross-cultural study, of what is referred to as indigenous learning systems. These are learning systems that have responded both to the requirements of communities as well as to influences from outside. This is a more consistent learning system in the sense that it takes into account the community as well as the influx of cultural elements from outside but within a framework that seeks to integrate political, economic and cultural values within that learning system.

Thank you, Madam President.

MR. SARMIENTO. May I go to the last concept – "self-learning, independent and out-of-school study programs."

MS. ROSARIO BRAID. "Self-learning" and "independent" are similar concepts. "Self-learning" would refer to a popular trend now of using self-learning materials, either in printed form, in audio cassettes, video cassettes under the supervision of a teacher or a guidance counsellor. An independent learning system is similar except that it includes correspondence courses or distance learning systems using the open media of communication or open university where learning is structured by the student in cooperation with the teacher. And so, what the teachers provide is various options in terms of learning materials and the student selects according to his needs and goals. Of course, the concept of out of school is understood; it is for those who have dropped out – the adults, the youths.

MR. SARMIENTO. I have one more question to ask, Madam President. It seems to me that from the explanations, we have ambitious concepts, using the words of Commissioner Rodrigo. Are we not raising false hopes among our people by providing this kind of education that is comprehensive in scope?

MS. ROSARIO BRAID. Madam President, the attempt of this provision is not to incur larger outlays; it is really more of using existing resources where the network of radio, television and community newspapers can be utilized. We have a number of audiovisual materials, libraries, and trained teachers who are able to handle nonformal education. It is really an attempt to organize all of these fragmented efforts that have been going on because some ministries are undertaking nonformal education in one form or another. The Ministry of Agriculture and Food and the Ministry of Agrarian Reform have adult education and cooperatives training but the attempt is to ensure that there is a reenforcement of this in the Constitution. One importance of this type of comprehensive approach is that often the values that are learned in school or that are taught in the home are not reenforced by the mass media, the content of the mass media or the family. And so, this type of provision would enable the strengthening of the linkage mechanisms that would ensure that the values, the learnings in the family, in the mass media and in the workplace are all coordinated so that we do not further create split personalities. That is really a hallmark of the Filipino personality on account of the conflicting values.

MR. SARMIENTO. Thank you, Madam President.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, I would just seek a little clarification about these concepts that are used in Section 1 (d). I have here with me a copy of Batas Pambansa Blg. 232, the Education Act of 1982, wherein under Section 20, formal education is defined as that which refers to the hierarchically structured and chronologically graded learnings organized and provided by the formal school system and for which certification is required in order for the learner to progress through the grades or move to higher levels. In other words, it is school-based and school-oriented.

On the other hand, nonformal education, according to Section 24 of this same Act, refers to any organized school-based educational activity undertaken by the Ministry of Education, Culture and Sports and other agencies aimed at attaining specific learning objectives for a particular clientele, especially the illiterates and the out-of-school youths and adults, distinct from and outside the regular offerings of the formal school system.

Based on the explanation that I have been listening to, it would appear that the distinction between nonformal and informal education is not well delineated, because if we follow this definition in the Education Act of 1982, nonformal education must also be school-based or directed in favor of a particular clientele, like the out-of-school youths and the disabled.

When do we speak, therefore, of informal education? Does it also have to be school-based or not at all?

MS. ROSARIO BRAID. Madam President, that is a very good question. This is, in fact, the criticisms against the Ministry's definition of nonformal education because they define nonformal education in a formal way. It formalized nonformal education by having even an undersecretary of nonformal education at one time with specific courses that are accredited. This is what we call the formalized nonformal education.

But when we talk of nonformal education and informal education, which is outside the ministry's supervision, we refer to all the learnings that happen outside the classroom indirectly, which are even more important and which are guided indirectly by parents or community members or priests.

MR. REGALADO. In other words, if it is an informal education, it is not school-based. It may have bases on other sources.

The problem that arises here is in subparagraph (e), because it speaks of a comprehensive approach to education by coordinating the formal, the nonformal and informal learning systems. When we say "coordinating"— and we proceed on the assumption that informal is not school-based – the regulatory functions of the government entities, like the MECS, over informal education are not denied because it is not school-based.

MS. ROSARIO BRAID. Madam President, we added the words "promoting and coordinating." The concept of coordination would be more on the informal aspect, which really does not imply a regulation. It is the need to insure that each of these reinforces the other, such as in the Sri Lanka model. I always refer to that; nobody manages it. The Ministry of Education, Culture and Sports has nothing to do with it, but right from the beginning, the church, the school and the home have interplayed together and have coordinated their efforts in shaping the human personality.

MR. REGALADO. If the subjects taken up in that informal education happen to run at cross purposes with those in the formal education methods of learning, may the State intervene and prevent the teaching of those prohibited or taboo subjects in the informal education because we used the word "coordinate"?

MS. ROSARIO BRAID. The intent here in terms of future legislation is to recognize, for instance, that the mass media are important learning systems as the schools and that if we consider them as equal in terms of influence, the State should insure that the media are not only used as delivery systems, but that, in fact, the content, the approaches, the philosophy of the mass media system should really be examined in terms of whether they reinforce the values of society and the goals that we would like to develop.

MR. REGALADO. In other words, although we use the word "coordinate," in proper instances, the State may also have such regulatory powers with respect to informal or indigenous method of learning when it becomes necessary.

MS. ROSARIO BRAID. When it is in conflict with the prevailing value systems.

MR. REGALADO. Thank you, Madam President.

MR. ROMULO. Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. I have the same basic questions as those of Commissioner Regalado. Is the sponsor suggesting that we would control the media so that they would reflect the kind of values that we feel should be passed on to our children?

MS. ROSARIO BRAID. That is not the intent, Madam President. The intent here is to have general guidelines that would show a certain desirable direction in order that we can achieve greater balance. I think freedom of information is something that we should value, but when we overstep it, such as when 80 percent of what we see in the mass media is entertainment, I think the public has a right to demand some balance in terms of education, culture, etc.

MR. ROMULO. Yes, but how would we bring about the balance? We will have guidelines, but if we cannot enforce the guidelines, what is the point of it?

MS. ROSARIO BRAID. We are trying to work on policies agreeable to all the media sectors so that they can be self-regulating for their own professional development consistent with their social responsibility vis-a-vis the directions of the learning systems.

MR. ROMULO. So, these are all hortatory. When the committee says "coordinate," but it has no control over some of the factors that it wants to coordinate, we really are not achieving very much. In effect, we would just go out and preach certain guidelines to them on how they ought to do this and that. That seems to be the intention of this paragraph.

MS. ROSARIO BRAID. We have used it loosely, and if the Commissioner is more comfortable with the phrase "to integrate," we will accept it, but the spirit here is that there is a need to harmonize all of these so that they do not conflict. And we could not find a better word.

MR. ROMULO. Yes, but my point is that one cannot harmonize these, as Commissioner Regalado suggested, until they are regulated because society goes in diverse directions and if the committee wants to coordinate these various things, it really cannot do it effectively without regulation.

MS. ROSARIO BRAID. That is the intent in terms of what I would call self-regulation by following specific guidelines which have succeeded to some degree. As long as we have sanctions and reinforce them like a code of ethics, and if everyone adheres to the code of ethics, I think we would move more towards this type of a regulation.

MR. ROMULO. Yes, thank you.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. I just want to address one question to Commissioner Rosario Braid. I saw in several magazines in the United States that there is a great number of correspondence schools; and in the Philippines, it appears to me that there is also a proliferation now of correspondence schools. The concept is not new. Some of us have been trained by correspondence even in the army courses; we have nonresident courses in the Army. I wonder if these correspondence schools would fit into any of these classifications that were made in the proposal.

MS. ROSARIO BRAID. Yes, Madam President, these would fit but, of course, this provision intends to put up criteria not necessarily to encourage all types of correspondence schools because they proliferate and some are substandard.

MR. MAAMBONG. Would they fit under the words "self-learning, independent, and out-of-school study program"?

MS. ROSARIO BRAID. That is right, Madam President.

MR. MAAMBONG. I would assume that they would be under the administrative regulation or control of the Ministry of Education, Culture and Sports. Would that be it, Madam President?

MS. ROSARIO BRAID. This will be the intent; I think there should be one central body. It should be the Ministry of Education, Culture and Sports. There are privately-led efforts in this. There is an Asian Institute of Distance Education run by the Ayala Corporation and other organizations which are independent but they are, I think, under the regulation of the Ministry, like all private schools.

MR. MAAMBONG. As of now, would the sponsor know if the Ministry of Education, Culture and Sports is supervising or regulating these correspondence schools which are proliferating all over the country?

MS. ROSARIO BRAID. Yes, Madam President.

MR. MAAMBONG. Thank you.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I be allowed to have some follow-up questions?

THE PRESIDENT. Please proceed.

MR. DAVIDE. In the light of the proposal now that all educational institutions shall be owned and controlled by Filipino citizens, how would these international correspondence schools fit in it, for instance, it is an American school offering international correspondence course? If we now approve the proposal on Filipinization, necessarily, we cannot allow international correspondence schools owned by aliens.

MS. ROSARIO BRAID. I think it will follow since they fall under the Ministry of Education, Culture and Sports.

MR. DAVIDE. Yes.

MS. ROSARIO BRAID. They would be under the regulations of the Ministry.

MR. DAVIDE. Thank you for that information.

MR. NOLLEDO. Madam President, I would like to ask only two or three questions.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President. I understand that coordination does not mean integration. One does not integrate nonformal with the formal.

MS. ROSARIO BRAID. In a way, it is integration because we would like them to work together closely.

MR. NOLLEDO. Is it not true that nonformal education is only a reinforcement of the formal?

MS. ROSARIO BRAID. Not necessarily. Many learn through out-of-school programs. Many of the best-educated people are not formally schooled. As we know now, there is a greater interest in what is happening in a deschooling society – to use Illich's words.

MR. NOLLEDO. Disregarding adult education, can the nonformal or informal be a substitute for the formal in this provision? It can never be a substitute?

MS. ROSARIO BRAID. It can be a substitute. When it is informal as formalized, as Commissioner Regalado talked about, it can be a substitute for formal education as when they are now accrediting independent study programs or providing degree certificates for learning that is done outside the home through self-learning materials.

MR. NOLLEDO. So, it is possible that in certain areas of the country, nonformal education is being conducted, while in other areas, formal education is conducted. Is that possibility correct?

MS. ROSARIO BRAID. Yes. I think by the year 2000, we have to look at the burgeoning population wherein the classrooms can never accommodate thousands and millions of students. We will not have enough trained teachers. Therefore, the only way to really deliver learning is through nonformal education – the television, radio, newspapers, self-learning materials and other systems.

MR. NOLLEDO. Thank you, Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Thank you, Madam President. What bothers me is the word "coordinating." Would the committee not be happy with simply saying that the State should encourage nonformal and informal and indigenous learning systems because the main thrust here is to encourage education? And I suppose this problem is addressed to those students who, for one reason or another, cannot attend regular schooling. So, the government here could give them very practical help, I believe, providing some kind of help necessary to assist them.

If the committee insists on coordinating formal and nonformal form of education, how are we going to do this? Let us take an actual case. A poor man is giving his children fundamental learning in his nipa hut. How are we going to coordinate their learning with the system of schooling in the government school?

MS. ROSARIO BRAID. I think the phraseology is acceptable as long as the intent would be to insure that these learnings do not occur independently but that they are reinforced.

MR. COLAYCO. What does the sponsor mean by "as long as they do not occur independently"? I would give them every leeway possible to encourage them because if we are going to insist that there be some nexus, some connection between formal and informal education, we would be imposing unnecessary hardships on people who are trying to do their best to educate their children because, for one reason or another, they cannot send them to school. Instead, I would provide government help. For instance, if they cannot afford their pencil and paper, which is very true in the provinces, I would give them that because the main thrust of this article is education.

MS. ROSARIO BRAID. Yes.

MR. COLAYCO. And I think it is a good idea to encourage nonformal education – also called indigenous education. But let us not make it hard by requiring some formal recognition on the part of the government. That is my main purpose here. I would be very happy to vote for this if we could do away with this coordinating requirement and instead come out openly and clearly that it is the purpose of this section to encourage.

MS. ROSARIO BRAID. We accept that as long as it is on record. What we mean is that we do not want parents to let the school provide all the education but that they also participate in guiding what programs their children would watch.

MR. COLAYCO. Yes.

MS. ROSARIO BRAID. That is the spirit of this type of coordination, but we are happy to delete it as long as that is . . .

MR. COLAYCO. Let us tie this up with our program of land reform. We parcel out the big haciendas into small ones; therefore, we would have the poor farmers rely on their children – most of them would probably be of school age. Probably, during the planting season, the children could help. And it is at this period when probably the parents could continue or maintain an informal education. So, if the committee does not mind, I would change the course of the thrust here and instead merely emphasize encouragement by the State.

MR. VILLACORTA. The proposal, Madam President, is accepted by the committee.

MS. ROSARIO BRAID. Yes, it is accepted.

MR. COLAYCO. Thank you, Madam President.

MR. VILLACORTA. Madam President, I think we have had more than sufficient discussion on the matter, and the committee would like to call for a vote.

BISHOP BACANI. Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Before we take a vote, I think there is something very fundamental in this paragraph. I do not know whether there is really a philosophy of education enshrined here. How do we look at the State? Do we look at it as the educator or the financier, the supporter, the helper, the encourager, so to say, of education? The reason I ask this is that the provision specifies that the State should provide a comprehensive approach to education.

MS. ROSARIO BRAID. Yes. The State would be more of a facilitator although it may improve, for instance, the investments in the nonformal literacy programs. But more than that, it should encourage the creative organization of existing resources. We have all the infrastructure resources needed to provide for this, except that they are not organized and integrated.

And so, we hope that this mandate will encourage the Congress and the Ministry of Education, Culture and Sports to take the necessary steps to move more vigorously towards organizing or linking the media system with the educational system and all forms of nonformal education given by the ministries and other agencies together with nongovernment agencies.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Let me put this in historical context.

There has been a crisis in education worldwide and the Philippines has not been saved from this. The argument is that the State's mass educational system tends to be authoritarian, nonparticipatory, and it tends to homogenize values. Because of this, there has been a reaction from various groups, educationalists and scholars to examine other possibilities for education independent of what is provided for by the State.

Especially in underdeveloped countries where there is a rich variety of cultural values, the reaction to the State's mass educational system has been in terms of identifying existing learning systems that are more sensitive to community values and community requirements, that is why various learning centers have evolved. While being attached to the State in some ways in terms of support, they are able to develop curricular programs that are more responsive to the requirements of the communities, without neglecting the requirements of national development.

This is one important reason, therefore, that the State must recognize the need to evolve their own community-based educational system. It elaborates further on the trend towards increasing the participation of communities which we find in social justice, in the economy, and should be reflected also in the educational system. Therefore, it seeks to democratize in a way the educational system by the efforts of communities themselves.

BISHOP BACANI. May I just ask: When we speak of a comprehensive approach, will this mean that the State will formulate an ideology of education which will be the State's ideology in education?

MS. ROSARIO BRAID. We hope that it can work more towards formulating a more radical philosophy — I would hesitate to use the word "radical," but I think that is more like it — of education that responds to the needs of the times. I think our education, we have to admit, does not take into consideration the pace, the learner's capacity, the unique individual differences by providing, because they are provided, homogeneous and uniform education. This allows the learner to learn at his own pace; this allows more participation; this allows him to select his needs rather than be dictated upon from the top.

In other words, I think we are saying education should move away from the highly top-down authoritarian system toward being more experiential and learner-oriented.

MR. GASCON. Madam President, I think the issue here is the process. I should say we do not believe that there should be a development of one state ideology which is imposed on the people.

BISHOP BACANI. Yes, because we are speaking of a comprehensive approach.

MR. GASCON. Yes. So, the issue is not imposing one thought pattern on the people; the issue is really encouraging new processes towards people's learning because of their experience. And I believe we accepted the proposal of Commissioner Colayco to replace the word "comprehensive."

BISHOP BACANI. Yes, to remove the idea of comprehensive approach because I do not know if that is the function of the State in its role of educating or if its function is to help mediate between the different groups that are engaged in the educational process, to see to it that the common good is safeguarded at all times, and the total human liberation, development, nationalism and national unity are fostered.

MS. ROSARIO BRAID. That is quite correct, Madam President. The State, though, has the responsibility of creating the climate where all of these integration and relationships can happen.

BISHOP BACANI. Thank you very much.

MR. NATIVIDAD. Just one question, Madam President.

THE PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. During my younger days – I do not admit that I am old – when I was serving the government as chief of the crime laboratory of the Constabulary, whose main function was the application of science in criminal investigation, I recall that whenever I testified in court as an expert in questioned documents or in ballistics fingerprints or any other scientific field, there were many individuals offering themselves as experts based on correspondence training.

This correspondence school which was mentioned, which will fall within the coordinating field of this paragraph, I think, is justified. In my own experience, we in the government took years of undergraduate and graduate training under the Federal Bureau of Investigation of the United States and Scotland Yard of Great Britain in order to attain our professional capacities. But these people who are themselves present in court as fingerprint experts, ballistic experts, questioned documents. Experts testify in court that they are graduates of, for instance, the Applied Science College in Chicago, Illinois. The court sometimes does not bother to ask whether or not they actually went to Chicago. It turned out later on that many of these experts are graduates of correspondence schools.

The question with these correspondence schools is, one will always get 100 percent because they mail the questions together with the answers. And so, when one mails back the answers, he gets 100 percent; when he testifies in court as to what he got in the course on questioned documents, he will say, "I got 100 percent." But because of the lack of supervision of the government over these correspondence schools, nobody suspected that this individual never actually went to the United States for training and this has caused a lot of deception even in courts. People present themselves as knowing ballistics who can determine the trajectory of a bullet by just being correspondence school students. Whereas, we in the government die looking at the double comparison microscope; we sacrifice our dates on weekends just to attain our professional capacities.

And so, I think that one beneficial effect of this is the statement of Commissioner Rosario Braid that correspondence schools will have to be within the ambit of supervision or coordination of the government because of the problem that many are presenting themselves as graduates of schools abroad without bothering to say that these are correspondence schools.

If this is implemented, perhaps, there will be some monitoring of the activities of these schools. This is important because this constitutes deception inasmuch as these people are not really professionals.

Thank you, Madam President.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. After hearing Commissioner Natividad, I was just thinking also of the area of health where, under the nonformal or informal education, we have the present program of training barangay health workers who are going to deal with the lives of people in the areas where there are no professional health workers. I think it is for the protection of the citizens that there is some kind of regulation because the moment an unsuspecting or trusting citizen presents himself or herself to the care of health workers who may not have undergone proper training, then we are also endangering the health of our people.

So, I was thinking of a term, which will not just encourage but have some kind of supervision, not really regulation, over informal training that would address such programs to the meeting of certain needs of the people.

MR. NATIVIDAD. Thank you, Madam President.

MR. COLAYCO. Madam President, just a brief reaction.

MR. RAMA. Madam President.

THE PRESIDENT. Yes, Commissioner Colayco, is there any thing?

MR. RAMA. Before we suspend the session, there is a request from Commissioner Concepcion to speak on this matter.

THE PRESIDENT. Commissioner Concepcion is recognized.

MR. CONCEPCION. Thank you, Madam President.

Madam President, may I ask a question? I think we are referring to paragraph (e), are we not?

MS. ROSARIO BRAID. Yes, Madam President.

MR. CONCEPCION. We are not referring to the substance or the content of what is being taught on the basis of the language of paragraph (e). We are referring to the methods, the technic of teaching, the means and ways of imparting knowledge, not in particular the way we taught; am I correct in my assumption?

MS. ROSARIO BRAID. I think it will be both. Coordination here means coordinating the system, the structures, the methods.

MR. CONCEPCION. Yes, this is coordination insofar as the method is concerned.

MS. ROSARIO BRAID. Yes.

MR. CONCEPCION. Is the sponsor speaking of coordination with respect to the substance because I notice "learning systems" was stated here? The word "approach" was used and to me this suggests the method of teaching, the manner in which one will establish contact and impart information to the students.

MS. ROSARIO BRAID. That is right, Madam President. As a matter of fact, we give freedom to choose the content. This provision provides a lot of freedom for the learner and for the system to develop their own content.

MR. CONCEPCION. Yes, but system of teaching.

MS. ROSARIO BRAID. Yes.

MR. CONCEPCION. Not the contents, not what is going to be taught.

MS. ROSARIO BRAID. That is right, Madam President.

MR. CONCEPCION. Thank you very much.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I think there is something that has been missed in the deliberations. I think the recognition of other learning systems outside of the State-sponsored learning systems is also a recognition for the flowering of genius outside of this State-supported system, but which genius could also be utilized by the State. For instance, one would-be Math wizard can develop his talent outside of the State system but could be used by the State system. If such a manner of recognition can be developed, then that genius does not have to submit himself for certification by the State but participates in the State's school system through his own talent. The same may be said for genius in the arts who need not go through the State-sponsored school system but who may be utilized in providing needed stimulus for further development of the arts in the Philippines. We are saying, therefore, that the recognition by the State of other learning systems allows for a greater variety of expression of genius and talent.

MS. ROSARIO BRAID. Madam President, looking into the future in terms of anticipatory planning, this type of learning alluded to by Commissioner Bennagen acknowledges the fact that the society is getting more complex and man needs more knowledge and that perhaps a more organized system such as ours would network all sorts of knowledge centers, libraries, resource centers, and make this available so that the student can select rather than be confined to a teacher and one classroom. The responsibility of the State would be to help organize these knowledge centers. The concept of what we call "knowledge networking."

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Much has been said about correspondence schools and I carry no brief for correspondence schools, although I do not mind saying that I did study in such a school. It might seem unbelievable that I studied auto mechanics under the National School Program in the United States. Mention has been made here by Commissioner Natividad about criminology schools. To supplement my knowledge of criminology, I also do not mind saying that I did study in the Institute of Applied Science precisely because these programs are not available in the country. While I agree that there should be supervision of these schools, I would just like to put on record that these schools have served a lot of people in this country because it is a self-learning method of study which I think should be enhanced because there are so many people who cannot really afford to go to school. In my case, as I said, as a supplement to my study of criminology, I had to enroll in an out-of-school correspondence course. I am just trying to put on record that this should be enhanced but it has to be supervised.

Thank you.

MS. ROSARIO BRAID. Thank you.

MR. RAMA. Madam President, there is a request from the chairman of the committee to have Section 2 (a), which was discussed yesterday, be voted formally.

THE PRESIDENT. We are discussing Section 2 (e). What happens to Section 2 (e)? Shall we defer?

MR. VILLACORTA. Madam President, the desire of the committee is that we vote on Section 2 (e), and then, before lunch, we vote on Section 2 (a) because the first sentence of subparagraph (a), which is the concept of free public elementary and secondary education, was not really clear to the committee. We do not know whether the voting down of the Rodrigo amendment last night implicitly affirmed this concept or not.

THE PRESIDENT. That is with respect to the word "high school."

MR. VILLACORTA. Yes, Madam President, with respect to free public elementary and secondary education. The interpretation of the committee is that the rejection of the Rodrigo amendment implied that the body accepted free public elementary and secondary education, but we would like to be clear on that.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. This particular section, while it may have been impliedly accepted because of the rejection of the Rodrigo amendment, might still be open to other amendments which might introduce some other concepts related thereto. I understand that Commissioner Sarmiento has his own proposed amendment which would really be an additional concept.

MR. VILLACORTA. But at least the concept of free public elementary and secondary education should be resolved this morning so that we do not have to go back to Section 2 (a). It is not systematic to do that and the discussions of last night would be wasted. We will go back to square one.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. In order to do justice to the prolonged and exhaustive debates on this question of free public school system, both on elementary and high school levels, I think we should vote on this without prejudice later on to any new concepts being introduced in addition to this core proposal in Section 2 (a).

Thank you.

MR. SARMIENTO. With that understanding, Madam President, I will have no objection.

THE PRESIDENT We have already approved the compulsory concept for elementary education. We have approved free elementary education, so what is to be approved now is free high school education. Is that correct?

MR. VILLACORTA. That is right, Madam President.

THE PRESIDENT. Can we proceed to vote on that now?

MR. NOLLEDO. Madam President, please. I think that is subject to the condition that there will be a provision in the Transitory Provisions giving the government a certain period of time to implement the program.

MR. VILLACORTA. That is right, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of providing for free high school education, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 28 votes in favor, 1 against and 1 abstention; the proposed concept is approved.

MR. VILLACORTA. Madam President, may we now vote on Section 2 (e) on formal and nonformal education.

THE PRESIDENT. How is it to be formulated? Is it just the concept of formal?

MR. VILLACORTA. We are changing "coordinating" to "ENCOURAGING."

THE PRESIDENT. "Providing measure," is that correct? Is it what Commissioner Colayco was proposing?

MR. VILLACORTA. It includes the phrase "providing measures," Madam President.

THE PRESIDENT. For nonformal, informal and indigenous learning systems.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I do not know if this is a matter of form, but instead of mentioning the words "formal," "self-learning," "independent" and "out-of-school study programs," which enumeration might imply exclusion of those not enumerated, can we not just say: "ENCOURAGE ALL SYSTEMS OF INSTRUCTIONS AND PROGRAMS OF EDUCATION," particularly those that respond to community needs? That is just a suggestion. Instead of specifying, some may not be clear to the average man, and I must confess, without the explanations, I could not really distinguish clearly between formal, nonformal, informal, indigenous, self-learning and independent. Why not an all-embracing term "ALL SYSTEMS OF INSTRUCTIONS AND PROGRAMS AND EDUCATION"?

MS. ROSARIO BRAID. We appreciate Commissioner Padilla's interest, but we would rather retain the phraseology here because it connotes and it gives mandate for the State to undertake measures in these directions.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I suggest to the Committee that the wording should just say: "The State shall ENCOURAGE FORMAL, NONFORMAL . . ." and then give due reference to the phrase "a comprehensive approach and coordinating."

MR. VILLACORTA. The committee accepts the amendment.

BISHOP BACANI. Thank you.

MS. ROSARIO BRAID. Yes.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

I was about to object to the proposal of Commissioner Bacani because the entire educational system would relate precisely to formal and nonformal education with the latter supplementing the former. So, it is not just to encourage but it should be a mandate. I would propose that it should read: "A COMPREHENSIVE APPROACH TO FORMAL AND NONFORMAL EDUCATION AND COORDINATE nonformal and informal and indigenous learning systems . . ." So, the first is, "The State shall provide A COMPREHENSIVE APPROACH TO FORMAL AND NONFORMAL EDUCATION AND COORDINATE . . ."

MR. COLAYCO. Madam President, may I make my comments?

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. I believe that the purpose of the committee is to distinguish formal from nonformal form of education. That is why in Section 1 (a) and (b), we provide for formal free education. That is why we speak here of free public education; that is, elementary education. The purpose, I think, of paragraph (b) is to take care of the nonformal, meaning, self-learning process outside the schoolhouse. That is how I understand this. That is why I said, instead of emphasizing coordination, we should emphasize as the main thrust the encouragement of nonformal, meaning, learning outside the classroom.

MR. OPLE. Madam President.

MR. DAVIDE. That may be correct but the fact of the matter is, nonformal education right now is usually obtained within the educational system itself, not outside the educational system.

MR. OPLE. Madam President, may I just contribute a bit of information concerning the nonformal educational system. As actually practiced in concrete situations, nonformal education refers mainly at this time to accelerated vocational courses that are also held usually in the schools, and it does not quite embrace the self-learning process earlier referred to by Commissioner Colayco. My own concern is that the concept of self-learning outside the schools ought to be a part of this system that is going to be encouraged and coordinated. There are many Filipinos who learn by self-study. There are many who are largely self-taught persons, and if I may indulge a bit of a modesty, I consider myself falling in that class of largely self-taught Filipinos. And I think that no matter how small this proportion of the learning population is, they ought also to be recognized in this section.

Thank you, Madam President.

MR. COLAYCO. May I express my thinking of Section 2 (b). All that we are now discussing involves formal school learning, except Section 2 (b).

MS. ROSARIO BRAID. Yes, Madam President.

MR. VILLACORTA. Commissioner Colayco is right.

MR. COLAYCO. That is why I was for encouraging only because we are already encouraging formal school learning, free education from primary, elementary and high school and even tertiary level. In my perception, what is sought to be emphasized here by the committee is the self-learning, independent and out-of-school study programs. That is why it mentioned earlier indigenous learning systems. When I suggested encouragement, I meant that parents of children receiving informal education in their own homes could go to the school and ask the teachers: "How should I go about teaching my son about arithmetic?" or "How can I get the materials that I need to teach him drawing"? That is what I have in mind.

MR. RAMA. Madam President, the body is now ready to vote as called for by the committee chairman on the concept of formal and nonformal education.

THE PRESIDENT. What shall be voted upon?

MR. VILLACORTA. The paragraph will read: "The State shall ENCOURAGE nonformal and informal and indigenous learning systems, as well as self-learning, independent and out-of-school study programs particularly those that respond to community needs."

MR. COLAYCO. May I have one correction? I would not include the word "formal" there.

MR. VILLACORTA. No, I did not include it, Madam President.

VOTING

THE PRESIDENT. The word "formal" was not included there.

As many as are in favor of this proposed amendment to Section 2 (e), please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(No Member raised his hand.)*

The results show 31 votes in favor, none against and no abstention; Section 2 (e), as amended, is approved.

SUSPENSION OF SESSION

MR. RAMA. Madam President, I move that we suspend the session until two-thirty this afternoon.

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 12:41 p.m.

RESUMPTION OF SESSION

At 3:04 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

We ask the honorable Chairman and members of the Committee on Human Resources to please occupy the front table.

Mr. Floor Leader, is there any pending matter?

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, before proceeding, I would like to inquire if we will still work on concepts or shall we go now on the amendments section by section?

THE PRESIDENT. What does the chairman of the committee say?

MR. VILLACORTA. I am sorry; the Floor Leader was talking to me. Could the Commissioner kindly repeat?

MR. DAVIDE. The inquiry, Madam President, is whether we shall still go on the concept method or on the amendments section by section.

MR. VILLACORTA. I think we have been doing that but what does Commissioner Davide really mean by going through the normal amendment procedure?

MR. DAVIDE. That means we work along by section. So, right now, we can probably begin with Section 2 (f). Are we on individual amendments already or still on concepts?

MR. VILLACORTA. I think we can go by the normal amendment procedure starting with Section 2 (f) so that we do not just approve the concept but even the exact wording, if that is the wish of the body.

MR. DAVIDE. So, if it would be by the normal process of amendments, I would propose the following amendment to Section 2 (f). The proposal is, it should be reworded to read as follows: "PROVIDE CITIZENSHIP TRAINING AND PROMOTE WORK-ORIENTED EFFICIENCY TO ADULT AND DISABLED CITIZENS AND OUT-OF-SCHOOL YOUTH."

MR. VILLACORTA. I would like to confer with the other members of the committee. Am I right that the proposal is "PROVIDE CITIZENSHIP . . ."?

MR. DAVIDE. It will read: "PROVIDE CITIZENSHIP TRAINING AND PROMOTE WORK-ORIENTED EFFICIENCY TO ADULT AND DISABLED CITIZENS AND OUT-OF-SCHOOL YOUTH."

MR. GASCON. Madam President, I would like to ask why Commissioner Davide replaced "civics" for CITIZENSHIP and "vocational" for WORK-ORIENTED.

MR. DAVIDE. Madam President, I think the original wording in the 1973 Constitution is really "citizenship training." So, it is providing for citizenship training and also vocational efficiency, because if it is to provide civics, that would relate to civic training. It would not really capture the concept of citizenship training.

MR. VILLACORTA. The wording captures the essence of what we want in this paragraph. So, the committee is accepting the modification.

MR. DAVIDE. The committee, Madam President, has accepted the proposed amendment.

THE PRESIDENT. Are there any other comments on Section 2 (f)? So, will Commissioner Davide please read the subparagraph with his amendment.

MR. DAVIDE. So, subsection (f), lines 29 to 31, will read as follows: "PROVIDE CITIZENSHIP TRAINING AND PROMOTE WORK-ORIENTED EFFICIENCY TO ADULT AND DISABLED CITIZENS AND OUT-OF-SCHOOL YOUTH."

THE PRESIDENT. Has this been accepted by the committee?

MR. GASCON. Could Commissioner Davide please repeat that.

MR. VILLACORTA. I will repeat it for Commissioner Davide: "PROVIDE CITIZENSHIP TRAINING AND PROMOTE WORK-ORIENTED EFFICIENCY TO ADULT AND DISABLED CITIZENS AND OUT-OF-SCHOOL YOUTH."

MS. AQUINO. Madam President.

MR. DAVIDE. I changed "vocational efficiency" to "WORK-ORIENTED" to include skills which are also covered under subsection (b) of Section 3. Instead of "vocational," the committee used "work-oriented" so it would be in harmony with such a proposal.

THE PRESIDENT. Was this accepted by the committee, Mr. Chairman?

REV. RIGOS. Madam President.

MR. VILLACORTA. The committee has accepted the amendment, Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, my understanding is that we will go on the concepts in the entire section on education and then give a chance to the committee to put the necessary wording.

THE PRESIDENT. Yes, but I think the procedure is being changed now – whenever the committee is ready to accept or not to accept, they are proceeding on so as to save time.

Is there any objection to this proposed amendment of Commissioner Davide on Section 2 (f) which has been accepted by the committee?

Commissioner Aquino is recognized.

MS. AQUINO. Madam President, the original sounded much better than the amended version, considering that the focus of this paragraph is the adult and the disabled. There might be some kind of conceptual variance in reference to the other paragraph which is technological and work-oriented efficiency. But here, the focus is on adults and the disabled.

I would object, therefore, to the amendment being proposed by Commissioner Davide.

MR. VILLACORTA. Madam President, it is not clear to the committee what the reservation of Commissioner Aquino is.

MS. AQUINO. What I mean is, I am agreeable to the formulation in Section 3 (b). And for that reason, in fact Commissioner Davide would say that for purposes of symmetry, we might as well use the same phraseology. However, we are referring to adults and the disabled in Section 2 (f), and the amendment speaks of work-oriented efficiency and citizenship training.

MR. VILLACORTA. Yes. The disabled may also acquire work-oriented skills and efficiency.

THE PRESIDENT. What does Commissioner Davide say?

MR. DAVIDE. I think Commissioner Azcuna is prepared with another amendment which would align our common objective.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Madam President, I propose this amendment to the Davide amendment, which would read as follows: "Provide adult citizens, the disabled and out-of-school youth WITH TRAINING IN CIVICS, vocational efficiency and other skills."

MR. DAVIDE. We accept.

THE PRESIDENT. How about Commissioner Aquino?

MS. AQUINO. Yes, Madam President, I accept.

THE PRESIDENT. Is it accepted now by the committee?

MR. VILLACORTA. It is accepted, Madam President, because it is a mere transposition.

MR. AZCUNA. Yes, it is only a transposition to make it clearer. It is not training really that is being provided.

MR. VILLACORTA. Thank you.

THE PRESIDENT. Is there any objection to this proposed amendment? *(Silence)* The Chair hears none; the amendment is approved.

Let us proceed to Section 3 (a), Mr. Chairman.

MR. VILLACORTA. Section 3 (a) reads:

> All educational institutions shall include the study of the Constitution and human rights as part of the curricula.

THE PRESIDENT. Are there comments or proposed amendments on this?

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Madam President, that is an amendment proposed by this humble Representation and joined by Commissioners Alonto, Uka, Davide, Sarmiento, Suarez, Villegas, Rama, Padilla, de Castro, Abubakar and Ople, enough to make it pass, but I think the committee has studied this amendment. And so, Madam President, I should like to know what the reaction of the committee is.

THE PRESIDENT. Is the committee ready to react to the statement of Commissioner Tingson?

MR. VILLACORTA. Madam President, is Commissioner Tingson referring to the amendment that would include the lives of heroes as concerns of the curriculum? Is that the amendment the Gentleman was referring to?

MR. TINGSON. In the same sense and category or weight, Madam President, whatever the committee decides to put to the suggestion that the Constitution be studied.

MR. VILLACORTA. Madam President, the committee is divided, and we would like to throw the question to the floor.

MR. TINGSON. Madam President, may I just say something to support this amendment?

THE PRESIDENT. Please proceed.

MR. TINGSON. I am proposing along with 12 other colleagues to include as part of the curricula in all schools the study of the lives of our national heroes. Most of our children today, Madam President, are confused. They do not know what love of country is. They have not been inculcated with a sense of patriotism and nationalism. Their source of inspiration is not our heroes, but movie actors and actresses like Christopher de Leon, Gabby Concepcion, Aga Muhlach, Nora Aunor, Sharon Cuneta or even foreign actor-singers, Boy George and Michael Jackson. These people are, by and large, good and decent citizens. I certainly do not want to be misunderstood, except that almost exclusively, our young people are now devoting time to hinge their lives to these folks who are not of course, in the sense, national heroes. Our children worship and adore these movie actors and actresses. Their best reading materials are comic books and other trash, if we would call them that way, and most of them are reading materials which do not have any moral or spiritual values. As a result of this, Madam President, our children have distorted sense of values. They have not imbibed the spirit of nationalism and patriotism.

We can redirect the sense of appreciation and inspiration of our schoolchildren by letting them study the lives of our heroes. We still quote very often what we studied and memorized in our high school days — ". . . lives of great men remind us . . ." We, too, can make our lives sublime. I maintain that the study of biography is not for imitation, but for inspiration, because these are Filipino heroes, and so, the children can easily identify themselves in the lives of our heroes because they, too, are Filipinos. What can be a better example for our youth for the instillation of love of country, patriotism, sacrifice and selfless dedication for others than the life of Dr. Jose Rizal, Mabini, Bonifacio and, of course, our own hero of recent vintage, Ninoy Aquino?

Aside from the previous attempts to include in the curricula of our schools the teaching of Noli and Fili, there has never been, it seems, any effort to include the study of the lives of our national heroes. Most of our children do not even know who our heroes are other than Dr. Jose Rizal. We have so many heroes and heroines who are not known to our children, like Tandang Sora or Melchora Aquino and Teodora Alonzo, because the lives of our heroes are not included in the curricula of our schools. There is no continuing research in the lives of our national heroes. It seems that we have scanty materials about them. Perhaps, there are many more facets in the lives of our heroes which are now known to our people, and we should, Madam President, encourage them to know more about these even as we are now wanting them to study as part of the curriculum our Constitution, which is, of course, but right. Perhaps, we should then allow the lives of our heroes to mold the character of our young people by allowing also, along with the study of the Constitution, the study of the lives of our national heroes.

Thank you, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Madam President, will the Gentleman yield to interpellations?

MR. TINGSON. Gladly.

MR. NOLLEDO. Thank you, Madam President.

Who are those Filipino heroes referred to in the phrase "lives of Filipino heroes."

MR. TINGSON. As I said in this little manifestation, I refer to Dr. Jose Rizal, of course, our own Mabini, our own Bonifacio, and if the group who will later on be authorized to cull materials for this so desires, we could even include Ninoy Aquino.

MR. NOLLEDO. Would the Gentleman include the past presidents of the Republic of the Philippines as heroes? *(Laughter)*

MR. TINGSON. I would include presidents because there is no greater national leader than Manuel Quezon, the dynamic leader; men like Sergio Osmena, so gentle and yet so patriotic; a man like my fellow Ilonggo, eloquent Manuel Roxas; the man of the masses like Ramon Magsaysay; and men like those. *(Laughter)*

MR. NOLLEDO. Would the Gentleman exclude some of them?

MR. TINGSON. I would leave it to the discretion of people who probably know them better than I profess to know them.

MR. NOLLEDO. I was thinking that there must be some standards by which one determines whether a person is a hero or not.

MR. TINGSON. Certainly. We just do not want to spell them out here in detail, naturally.

MR. NOLLEDO. Perhaps the proponents can put into the record what standards are used to determine whether we should study the life or lives of certain persons in the history of the Republic.

MR. TINGSON. Yes.

MR. NOLLEDO. Now, I presume that the Gentleman must have passed social studies, which is part of the curriculum of the elementary and of the high school.

MR. TINGSON. If I remember, I got something like 90 percent in those subjects.

MR. NOLLEDO. I am not asking for the grade of the Gentleman. *(Laughter)* But is it not true that the lives of Filipino heroes are studied in Social Studies and in Philippine History, as well as in Philippine Government?

MR. TINGSON. Yes, they are, but in a very perfunctory manner. And inasmuch as we are putting an accent here on the study of a document which is lifeless and yet inspiring – the Constitution – I would like to balance that by the study of living illustrations and demonstrations of people, like we mentioned here in the social justice provision, who understood and who fought for and who died for the principle of social justice.

MR. NOLLEDO. Does Commissioner Tingson recommend now that the subject, the lives of Filipino heroes, be made an independent subject in the elementary or high school or even college?

MR. TINGSON. In the same manner that the committee is thinking to so treat the study of the Constitution.

MR. NOLLEDO. Thank you.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. I would like to say a word in opposition to the proposal, but please let me explain. I have nothing against heroes; in fact, I have nothing against actors and actresses either. But what I am against is the multiplication of prescribed subjects. I would be satisfied to put in the Constitution the study of human rights as part of the curriculum. But if we add one more subject to it, before we know it, there will be no more time for arithmetic, no more time for reading, no more time for writing. But if at all, I would put it down in simple phrase as one of the goals mentioned in Section 2 (b), like "Familiarity with the lives of heroes." "They shall foster nationalism, love of fellowmen, respect for human rights, FAMILIARITY WITH THE LIVES OF HEROES, teach the rights . . ." But to formalize it as a subject would impinge on what we were talking about the other day, institutional academic freedom.

MR. TINGSON. Madam President, I would not want to treat the subject of studying the life of our national heroes in a secondary category to the study of the Constitution. I am all for the study of the Constitution and human rights because I, Madam President, am one of the Commissioners here who have filed a precise resolution on that score, on that subject. But it seems to me that it would be a wonderful idea to study the lives of people who were flesh and blood along with us, and who did precisely become heroes because they lived and they died following the precepts and the principles and the thrusts of this beautiful, new, inspiring, nationalistic Constitution we are now framing. And the very fact that 12 other respected Commissioners very willingly and on their own initiative wanted to coauthor with me this proposal, there must be some merit to this, Madam President.

THE PRESIDENT. What does the committee say?

MR. VILLACORTA. Madam President, as we have mentioned, the committee is divided and we would like the body to decide on the issue.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I would like to speak against the proposal for one important consideration. It is not that I am against the understanding of the lives of heroes. But more important than understanding the lives of heroes would be to understand the social processes that lead to the emergence of heroes. And the way it is being interpreted now, it tends to highlight individuals and personalities, as if these are icons above the historical process. I think their lives can be treated in a number of social science courses – political science, history, social studies as mentioned earlier. I think the lives of heroes can be adequately treated in these subjects; and if they are treated in these small, encompassing subjects of social processes, then it will allow students, as well as teachers, to better appreciate the very social background that led to these individuals' dying for their country. There is a danger in constitutionalizing the study of national heroes in terms of a hero worship, apart from the historical processes that led to the emergence of these heroes.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. May I just make a brief rejoinder? Madam President, our own Dr. Jose Rizal of whom we are so proud was, among other things, a doctor of medicine, a man of science, an engineer, a linguist, a sculptor and all that. And there is no more beautiful thing, Madam President, than to personalize these studies and realize that indeed, there were Filipinos who walked through the soil of the 7,000 isles and personified the very things we are writing here and enshrining in our Constitution.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I see myself as a coauthor of the proposed amendment and, of course, I am delighted to be invited to coauthor such a very welcomed amendment to Section 2 (g). However, will Commissioner Tingson and the other coauthors consider some recasting of these amendments so that instead of "THE LIVES OF OUR NATIONAL HEROES," we can say "THE HISTORY OF THE COUNTRY, INCLUDING THE LIVES OF OUR NATIONAL HEROES," so that this will at least partially meet the concern expressed by both Commissioners Bernas and Bennagen? "THE LIVES OF OUR NATIONAL HEROES" will be merely a kind of elaboration and exemplification for purposes of focusing on historical lessons, and they will be appreciated in the context of the history that this country has gone through, including the participation of the people themselves in the making of that history. In a sense, many historians believe that the people are the truly unacknowledged heroes of history, although this heroism is better focused in terms of exemplary life, including those of national heroes.

Will it disturb the symmetry of this intended paragraph if this amendment is considered, Madam President? May I read it as a whole with the proposed amendment: "The study of the Constitution, human rights, AND THE HISTORY OF THE NATION INCLUDING THE LIVES OF OUR NATIONAL HEROES shall be part of the curricula in all schools."

MR. TINGSON. Madam President, I would gladly accept that amendment to my amendment.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. May I propose an amendment to the amendment of Commissioner Ople. Section 3 already mandates the study of the Constitution, and I recall that the committee the other day warned that the moment we open the gates to the introduction of constitutionally mandated subjects, there may be no end to other subjects sought to be included therein.

We have here the study of the Constitution and on top of it, it is followed by "and human rights." I am proposing the amendment by deletion of the words "human rights" because a study of the Constitution will necessarily now involve the study of human rights since we have ingrafted in the Constitution a Commission on Human Rights. We cannot study the Constitution involving the Commission on Human Rights unless we necessarily study human rights. That is aside, of course, from the Bill of Rights.

So my reason for the amendment by deletion is that the study of human rights is necessary and should necessarily be included in the study of the Constitution, because of the new provision we have on the Commission on Human Rights.

THE PRESIDENT. Commissioner Abubakar is recognized.

MR. ABUBAKAR. Madam President, I have listened to the explanation of support for or against the proposal of studying the lives of our national heroes. I am for the support of the proposal because I consider it not only enlightening but a means of calling to the attention of the Members of this body that aside from Rizal, Mabini, and Bonifacio who are from Luzon, there were also heroes who came from Mindanao and who really fought and shed blood for the Philippines.

These are never mentioned or seldom are they mentioned in the textbooks. Even the Members of this Commission know that Mindanao fought for Philippine independence even ahead of the occupation of the island by Spain. There were heroes there who gave up their lives fighting for the independence of our country. If Mindanao is part of the Philippines, then the heroes produced in this country were men who fought hard against the intrusion of foreign rule – against Spain, against America – even with their motley arms and small number, they resisted to the end.

Therefore, I am in favor of this proposal so that every Filipino would be apprised, would know that there are also people from Mindanao – natives of Sulu, Lanao, Cotabato and other parts of the island – who not only shed their blood but resisted foreign domination and aggression. They are equally the heroes of the Filipino people. But they are seldom mentioned in books or even in our history. Are we giving them justice, these people who died for our cause, who, in their very resistance, projected the image that the Filipino people do not want to be enslaved? They fought against Spain; they fought against the Americans; they fought against the Dutch, against every intruder that wanted to colonize and control the Philippines. So, let us not forget them.

If we include heroes from Luzon or from the Visayas, Mindanao has its own share, and on this basis, I agree to the proposal of Commissioner Tingson to study the lives of our heroes. In this connection, I expect that the heroes from Mindanao be known by the leaders from Luzon and the Visayas and all parts of the Philippines so that they would know that their Muslim brothers, or the people in Mindanao fought for justice, for independence and liberation from foreign domination.

Therefore, on this basis, I think it would be in the interest of all Filipinos that they should know their heroes: heroes not only from Luzon or the Visayas but also from Mindanao and Sulu.

Thank you.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Ginang Pangulo, nais ko lang pong maghain ng susog sa page 2, line 2, upang ang pariralang "human rights" ay palitan ng "SOCIAL JUSTICE." Bagamat nakalagay na rin ang "social justice" sa ating Saligang Batas, ang paglalagay ng mga salitang ito ay pagbibigay diin mismo sa kahalagahan ng "social justice." Sa paksang social justice, tinatalakay mismo ang human rights, ngunit inuugat naman kung ano ang pinanggagalingan ng paglabag sa human rights.

Nais kong ipaliwanag ang aking panig tungkol sa bagay na ito. Narito ho kasi ang isang editorial ng *Malaya* tungkol sa nangyari sa St. Scholastica's College at kay Minister Juan Ponce Enrile:

> The Education Ministry's move to respect the academic freedom of private schools should set right whatever misimpressions some other zealous government men still have about how Filipino children should be helped to appreciate the realities of their society. The school, like most other sectarian private schools, had in recent years striven to get away from its elitist image and make education more relevant to its students. This naturally included helping students appreciate the realities of Philippine society and imbue them with a social cancer. Thus, it did not balk at the idea of letting its students listen to the Cagayan farmers who fled to escape being caught in the cross fire between rebels and soldiers.
>
> In backing the school, the Education Ministry manifested a broad and enlightened outlook in teaching. It showed that schools can and should help our young Filipinos be more aware than ever of the national situation by exposing them to such situation as the encounter with the Cagayan farmers, with the caution that teachers should help students process the experience. This way, our young children will not grow up with simplistic notion of heroes and villains, but with a deep and broad understanding of what is really going on in their country.

Kaya po, napakahalaga ng paksang "social justice." Sinasabi nga po ni Commissioner Bennagen na dapat maunawaan iyong "understanding social processes." Pangalawa, nais ko lang bigyang diin, Ginang Pangulo, na kung maaalala natin, minsang nag-usap ang mag-asawang magsasaka, si Mang Juan at si Aling Maria, pinag-usapan nila kung anong karera ang kukunin ng kanilang anak. Pinag-usapan nila na ang nais nilang maging karera ng kanilang anak ay maging abogado o maging isang duktor. Nawalan sila ng pagpapahalaga sa dignity of labor – doon ba sa pagpapahalaga sa gawain na dapat ikarangal ng isang magsasaka sa kanyang gawain.

Sa pamamagitan ng paglalagay natin ng pariralang "social justice," pahahalagahan nila ang dignity of labor. Kaya, para sa akin, dapat ilagay ang "social justice"; dapat itong bigyan ng diin bagamat kasama na ito sa ating Saligang Batas. Sa halip na "human rights," iminumungkahi ko sa komite na ipalit ang SOCIAL JUSTICE.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. We are now talking about three subjects which I think can be handled individually. The proposal of Commissioner Tingson will have to be amended to conform with the suggestion of Commissioner Bernas and Commissioner Ople. I suggest we take this up first, after which we can tackle the recommendation of Commissioner Regalado and then later on the suggestion of Commissioner Tadeo.

MR. COLAYCO. Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Thank you, Madam President.

The proposal is to require the study of the lives of our national heroes. I do not mean to demean the memory of Rizal, Aguinaldo and other national heroes, but what is involved here is, our heroes became heroes because of what they did, not because of how they lived.

If we are going to require the study of the lives of our heroes, it would be for the sole purpose of edifying our youth, to encourage them to follow the heroes' private lives. So, what is the purpose of requiring our students to study their lives? Are we sure that their lives could stand some scrutiny? I mean let us be practical. They became heroes because they immolated themselves for our country, not because they were model citizens in their private lives.

For this reason, I believe that the proposal does not merit consideration.

MR. TINGSON. Madam President.

FR. BERNAS. Madam President.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized first.

MS. QUESADA. Madam President, the committee is amenable to removing "human rights" and just constitutionalizing the study of the Constitution as part of the curriculum, the primary reason being that we do not want to open the floodgates to many other courses that would now be sought to be introduced.

We also remember the proposal of Commissioner Bernas to incorporate the proposal of Commissioner Tingson, et al in the objectives of educational institutions. Therefore, we will stop at constitutionalizing only the study of the Constitution, recognizing that the subject areas of human rights and social justice are already contained in the Constitution. We will not change the old provision of the Constitution in this way.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. I would like to formalize my opposition to the amendment of Commissioner Tingson, not so much in the form of something negative but by way of an amendment to his amendment.

First, I propose that the sense of the proposal be transferred to the second paragraph and the following be added somewhere on line 5: "THEY SHALL FOSTER NATIONALISM, LOVE OF FELLOWMEN, RESPECT FOR HUMAN RIGHTS AND APPRECIATION OF THE ROLE OF NATIONAL HEROES IN OUR HISTORICAL DEVELOPMENT."

MR. TINGSON. I accept, Madam President. I do accept that with gratitude, and may I request that we include the names of others who did join me originally in this amendment.

MR. RAMA. I understand, Madam President, that the committee accepts, so I ask that we take a vote so we can proceed to the other amendments.

THE PRESIDENT. Let us vote first on Section 3 (a), which according to Commissioner Quesada has been modified to include only the Constitution. Is that correct Commissioner Quesada?

MS. QUESADA. Yes, Madam President.

THE PRESIDENT. So, will Commissioner Quesada please read Section 3 (a)?

MS. QUESADA. "All educational institutions shall include the study of the Constitution as part of the curricula."

MR. NOLLEDO. Before we vote, Madam President, may I just ask one question of Commissioner Quesada?

THE PRESIDENT. Please proceed.

MR. NOLLEDO. Thank you, Madam President.

I know for a fact that in the study of the Constitution, because I am also teaching the subject, we concentrate only on the framework of the government. We seldom touch on such subjects as social justice and human rights. Is it the sense of the committee that in the study of the Constitution there should be emphasis on such topics as human rights and social justice?

MS. QUESADA. That is the sense that we would like to introduce now.

MR. NOLLEDO. Thank you very much.

THE PRESIDENT. Is there any objection to Section 3 (a) as read by Commissioner Quesada?

MR. GARCIA. I would like to object, Madam President. First of all, I would like to oppose the committee's decision to drop the words "human rights." As explained by Commissioner Nolledo, when we study the

Constitution, it would be the legal framework. I do not think one will go into the basic reasons why human rights are violated, nor the importance of civil and political rights, but expand it to include precisely the social and economic rights which also encompass the concept of social justice which Commissioner Tadeo very strongly supported.

In other words, I would like to suggest that we retain "human rights" here and have the complete meaning of human rights – civil, political, social and economic rights – because one would see the whole historical dimension and its importance with regard to the struggle for a future alternative society which the people should work for.

MS. QUESADA. Madam President, we would like to point out that the objective of the respect for human rights is contained in the objectives of educational institutions which are provided in Section 3 (b), so it is the idea of constitutionalizing subjects in the curriculum that we would not want to tread into because it will open the floodgates to other courses or subjects being introduced in the Constitution. But we do appreciate the importance of highlighting this and that is why Commissioner Nolledo put these ideas into the Journal, stating that it will no longer be just the study of the legal framework but it will stress on the importance of human rights and social justice, as we now have discussed in this body.

VOTING

MR. RAMA. Madam President, the chairman would like to throw the issue to the body for a vote.

THE PRESIDENT. As many as are in favor of Section 3 (a) as stated, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 30 votes in favor and 6 against; Section 3 (a) is approved.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. With regard to Section 3 (b), line 5, the amendment I propose is to delete the word "and" at the beginning of the line; then add after "human rights" the phrase "AND APPRECIATION OF THE ROLE OF NATIONAL HEROES IN OUR HISTORICAL DEVELOPMENT"; delete the comma (,) after "human rights."

MR. VILLACORTA. Madam President, the committee accepts the amendment.

MR. TINGSON. Madam President, may I just be clarified. The amendment that the Chair has just accepted was based originally on the amendment that I did propose. Is that right?

MR. VILLACORTA. Yes.

MR. TINGSON. I just wanted to make the matter clear.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I have a query to Commissioner Bernas. Without intending to denigrate the role of heroes – I have always believed that heroes are at best indices to historical process – heroes are created according to the people's own specifications. They are the embodiment of their dreams, their ideals, their frustrations and their defeats. In fact, the bedrock of hero worship is in the people's instinct for survival as a nation, and this is history; this is the sense of nationalism.

I would submit, Madam President, that the study of the lives of heroes and their contribution to history is necessarily imbedded in the valued education on nationalism. If it is incorporated here as a specific subject matter, it might amount to a distortion of a sense of history. As cited by Commissioner Azcuna, we do not study the lives of saints, but we study the processes leading to the development of sainthood, or leading to the worship of a hero. Would that not be included necessarily in the concept of fostering nationalism?

FR. BERNAS. Madam President, the main reason why I have put this in is to accommodate the amendment of Commissioner Tingson vigorously defended by others. I agree that all of them are included in the concept of nationalism – love of fellowmen, respect for human rights. At the same time, however, I would add that in saying "AND APPRECIATION OF THE ROLE OF OUR NATIONAL HEROES IN OUR HISTORICAL DEVELOPMENT," this would include an appreciation not just of the positive things they contributed, but also of the negative things that they contributed to the development of the nation.

There are no perfect heroes. And in line with our desire to inculcate, to encourage critical and creative thinking, the critical study of heroes will give us an appreciation of both positive and negative things and will train students in the process of deciding, for instance, whom to vote for in election contests, and so forth.

MS. AQUINO. Madam President.

MR. TINGSON. Madam President.

THE PRESIDENT. Excuse me. Commissioner Aquino still has the floor.

MS. AQUINO. Madam President, would the critical study of heroes lead possibly to a demystification of these heroes? For example, would this possibly lead to a conclusion that this hero was self-proclaimed after all?

FR. BERNAS. Yes.

MS. AQUINO. So, in the first place, that would set practical problems.

FR. BERNAS. In other words, a proper approach to the study of heroes could lead to demythicalization of heroes and could be a counterbalance to a tendency to hero worship.

MS. AQUINO. In other words, the proper approach to the study of heroes is essentially a study of the historical process.

FR. BERNAS. Correct.

MS. AQUINO. At best, they are necessary accidents to history.

MR. TINGSON. Madam President, may I just add to say to Commissioner Aquino that when I originally proposed that amendment, I was not just thinking of the lives of these heroes, but their works and their writings which are essentially a part of these processes that are being referred to.

MS. AQUINO. I was thinking of that, too.

MR. TINGSON. I would have said that, Madam President, in my amendment, except that we want to be brief as much as possible in constitution-framing. But I just take it that the committee would also agree that when we study the life of a person, we realize that he became a hero because he did right; because he did express what his life was, and then his works and writings naturally come into the picture. There was a comment about these people who are not perfect in a sense. Of course, these are people who became heroes because they are flesh and blood like us, but in spite of the fact that they are limited like most of us, they overcame their limitations for the sake of their country that they love. I think that was why they became heroes.

So, I would add that it should include naturally the study of the works and the writings of these national heroes.

MS. AQUINO. Madam President, in the past constitutions, we did not have any specific proviso on the study of the lives of heroes, but just the same, the study of civics and Philippine history, infused with the relevant sense of historicity, would lead us to emulate the good lives of those whom we claim now to be heroes. It did not at all minimize my concept of nationalism. I did not suffer any less; I did not suffer any more as when we would now introduce a specific proviso on the study of heroes.

I am not too sanguine about my objection, but these are some observations which need to be articulated for a better appreciation of the amendment.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, in spite of everything that I have said about the beauty of this amendment, I would much rather drop it, together with much of lines 5 to 9. The only reason I dare add this is that since we seem to be inclined to formulating litanies, we might as well complete the litany. But if we would rather be faithful to the desire of many for a more cryptic constitution, I would rather drop my amendment and then delete from the second line the phrase "teach the rights and duties of citizenship," up to "discipline" on line 9, and then continue with "encourage critical and creative thinking," and end there.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. I am glad to hear Father Bernas say that he would not go into this litany of phrases.

FR. BERNAS. Not that I am not pious, Madam President.

MR. SUAREZ. No, piety is out of the question, Madam President. But assuming that the Commissioner will finally decide to press the inclusion of the phrase "APPRECIATION OF THE ROLE OF NATIONAL HEROES IN OUR NATIONAL DEVELOPMENT," can he tell us who will do the appreciation for the students?

FR. BERNAS. The students themselves will be encouraged to be critical and creative in studying this. And the role of the teacher will be more as guide, encourager; in other words, the idea is not for the teacher to impose his own ideas, but rather to prod the students to be critical.

MR. SUAREZ. And the emphasis is on the role, and not on the lives or the works of these national heroes.

FR. BERNAS. The role would include the works.

MR. SUAREZ. Necessarily.

FR. BERNAS. And I suppose their lives also. We really cannot separate these things on the life of an individual.

MR. SUAREZ. Let me go back to the appreciation of the term "appreciation." Right now, there is some controversy as regards the role of Emilio Aguinaldo in our national development. The same is true in the case of Bonifacio; the same is true in the case of Rizal. Let us take the case of Bonifacio. I suppose the appreciation emphasis would be on his role in Philippine radicalism; in the case of Rizal, his role will be in the case of Philippine conservatism. Is my appreciation of Father Bernas' "APPRECIATION OF THE ROLE OF NATIONAL HEROES" correct?

FR. BERNAS. To my mind, the word "appreciation" is a two-edged sword. It is something which is able to recognize both the pluses and minuses of the situation. It is looking for things one can praise, looking for things one can accept, and also looking for things which one can reject, one can disagree with. That is the totality of appreciation – it is critical judgment, in other words.

MR. SUAREZ. In other words, whether they are negative or positive in character, provided that they contribute to the national development, these factors should be appreciated by our students and our people.

FR. BERNAS. Yes, I think it is important for young minds not just to see successes but also to recognize mistakes.

MR. SUAREZ. One thing is clear, therefore, that the matter of appreciation does not emanate from the State but it should come from the citizenry or from the student citizenry. Is that correct, Madam President, in order that we can set the correct perspective regarding the interpretation of the word "appreciation"?

FR. BERNAS. I take the word "appreciation" to mean a way of setting the price, and setting the price means an evaluation. So it could either be raising the price or lowering the price. However, the word "appreciation" does not necessarily mean praising.

MR. SUAREZ. Madam President, I am taking my cue from the preceding statement which reads: "They shall foster the appreciation of the role, etc." and the word "they" refers to all educational institutions. Therefore, the setting of what would constitute appreciation would come from these educational institutions. Is that the meaning of this phrasing?

FR. BERNAS. It could come from them in the sense that they will encourage critical thinking but not in the sense that they will dictate how these things are to be evaluated.

MR. SUAREZ. For example, take the case of the Ateneo University. Because Jose Rizal is an alumnus of Ateneo University, Ateneo would probably emphasize the role of Rizal and appreciate his conservatism. But in the case of the University of the Philippines which appreciates Bonifacio's radicalism, the University of the Philippines will now emphasize the appreciation of Bonifacio's radicalism rather than Rizal's conservatism. Is my perspective correct?

FR. BERNAS. I would have to say no, Madam President, because for me, appreciation does not mean "emphasis." Precisely, it means "weighing," so that whether it is Ateneo or U.P. studying Rizal or Bonifacio, both schools should be able to present both sides of the life of the individual.

MR. SUAREZ. I agree with Father Bernas, but because of the words "they shall foster," then followed by "appreciation, etc.," the word "they" would be interpreted to mean all educational institutions. Therefore, we leave the discretion on the degree of appreciation upon the educational institutions. There will be no balancing as we envision it to be.

FR. BERNAS. I do not see that following, because the very fact that we foster appreciation, this means we are fostering a critical evaluation.

MR. SUAREZ. There, that is the correct appreciation – the critical value.

FR. BERNAS. That is the main thing.

MR. SUAREZ. I would like that Father Bernas' interpretation of this phrase be stated into the record. It is the critical evaluation, I think.

FR. BERNAS. Yes.

MR. SUAREZ. Thank you.

Commissioner Bernas could change the word.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Bernas yield to a question or two?

FR. BERNAS. Willingly, Madam President.

MR. OPLE. Is it my understanding that the honorable Commissioner is about to waver concerning his position on his amendment to the amendment of Commissioner Tingson and other coauthors?

FR. BERNAS. It is a conditional wavering.

MR. OPLE. Yes. The reason for my intervention, Madam President, is to appeal to Commissioner Bernas not to waver on this excellent amendment, especially since in this dialogue just concluded between the two

Gentlemen, the other party being Commissioner Suarez, I think the sense has fully come up that appreciation of the role of heroes in our historical development is not tantamount to establishing a policy of hero worship, inordinate preoccupation with the lives of heroes, or perhaps some salacious details of their biographies, including those often attributed to Jose Rizal and his host of girlfriends scattered in several continents. The important point is that the lives and works of heroes in this context really mean a take-off point for a critical assessment of the history that we have gone through, a history that continues to develop to this day, a history that can be interpreted by the terms that Benedetto Croce understood history: that the only relevant history is a history of the struggle for human liberty and which the famous historian Teodoro Agoncillo actually assimilated to be the philosophy of all his writings on Philippine history.

Of course, Commissioner Bernas will recall this great iconoclastic work on our Philippine heroes, *A Question of Heroes,* written by Nick Joaquin which I think best meets Commissioner Suarez' search for the meaning of appreciation. This is a splendid appreciation of Philippine heroes, almost the whole pantheon of Philippine heroes, wherein Nick Joaquin decided to apply his own tremendous insights into the meanings of the lives of these heroes in a historical context and found so many of them wanting. For example, Nick Joaquin has never been forgiven in Bulacan for denigrating General Gregorio del Pilar and emphasizing his love affairs, a certain promiscuity and, of course, some implied hints that he might have something to do with that tragedy that occurred in the plaza of Cabanatuan when General Antonio Luna was assassinated. But I thought this type of appreciation has its place and from a purely pedagogical point of view we also know that history, in certain instances, can be better taught through biography because biography is merely a form of history.

And so, it is in the light of this consideration that I think Commissioner Bernas' amendment to the amendment proposed by Commissioner Tingson and others does find an appropriate place in Section 3 (b). It does no violence to the symmetry of the paragraph; it does not detract from the meaning of nationalism but contributes to it.

So, may I appeal to Commissioner Bernas not to waver on this excellent amendment to the amendment?

Thank you.

FR. BERNAS. Madam President, I said it is a conditional wavering. That is, if the rest of this must fall, then I would rather have mine fall also. But if the litany stays, I would keep it and in the light of the interpellation of Commissioner Suarez where the word "appreciation" seems to be understood as tantamount to hero worship, I would perhaps modify that and substitute for it the words "critical evaluation."

MR. RAMA. One more question, Madam President. Does Commissioner Bernas agree with me that in almost all schools, the history of their nation is a necessary subject in a curriculum?

FR. BERNAS. As a matter of fact, it is part of the core curriculum, Madam President.

MR. RAMA. Does Father Bernas agree with one great writer who said, "what is history, but the biographies of the great men and the heroes of that country"?

FR. BERNAS. I would also include the biographies of the nongreat because history is not just the life of the great heroes.

MR. RAMA. In other words, Madam President, if we study the lives of the great men and the heroes of a country, we necessarily would appreciate better or learn better about the history of that country which is a necessary subject in all curriculum.

FR. BERNAS. Yes.

MR. RAMA. So, Madam President, may I ask that we take a vote on the Bernas amendment?

SR. TAN. Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. Just one word, Madam President.

After all that has been said about heroes, it took us some time to appreciate what we heard. So, I doubt very much if the teachers in schools can convey this appreciation of heroes. This is done more perfectly in this informal education. So why should we put it in the formal education and in the Constitution, besides adding to the litany and to a wrong concept of heroes? Our teachers are not equipped. We learn this appreciation in informal education, not in Saint Scholastica's College or Ateneo University.

FR. BERNAS. I would disagree. I think if they are the proper sort of teachers, they would be quite capable of leading students towards a critical evaluation of the role of personalities in the development of history. However, if they are just the type of teachers who, in contemporary language, are people who just rely on the banking system, then I would say that they would not succeed in this. But if they are really teachers, then they should be able to accomplish this.

MR. VILLACORTA. Madam President, we just would like to clarify with Commissioner Bernas if the wording is "appreciation" or is it "critical evaluation"?

FR. BERNAS. Since the committee accepted "appreciation," I would like to propose now "CRITICAL EVALUATION."

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I appeal to Commissioner Bernas to preserve "appreciation" in the light of the intent already clearly established, especially in the dialogue with Commissioner Suarez that "appreciation," which is the perfect word in literary criticism to fit the meaning that is intended, including "CRITICAL EVALUATION," is a better word than "critical evaluation." It is certainly more euphonious. It is not intended to be harsh as a beginning stance in the evaluation of heroes. It tends to be open-minded about the qualities of heroes. It is the perfect term in literary criticism and any doubts that have been expressed were successfully overcome by the previous explanations of Commissioner Bernas about the meaning of "appreciation." And so, that is just the point. I hope that Commissioner Bernas can adhere to the excellent word "appreciation."

FR. BERNAS. If Commissioner Ople is correct in the appreciation of this Commissioner's appreciation of the meaning of "appreciation," then I would agree.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. I join Commissioner Ople in that appeal to Commissioner Bernas in retaining the word "appreciation."

FR. BERNAS. I yield to the appeal.

MR. REGALADO. Even from the legal standpoint, we say "appreciation of evidence." That thus includes an evaluation. On the other hand, if we say "CRITICAL EVALUATION," the word "critical" may be understood or equated with criticism, instead of a critique. So, I think "appreciation" is the better word. And I appeal to Commissioner Bernas to stick to it.

THE PRESIDENT. What does Commissioner Bernas say?

FR. BERNAS. As I said, I yield to these passionate appeals, Madam President.

THE PRESIDENT. I join the appeal.

MR. GASCON. Madam President, to clarify. This paragraph is not a paragraph stating subjects. This is defining the thrust. So, it does not necessarily mean that if this amendment of Commissioner Bernas is approved, a new subject shall be created. This is not the thrust of this section. This section just defines the thrust and direction our education will take.

MR. UKA. Madam President.

THE PRESIDENT. Commissioner Uka is recognized.

MR. UKA. I think I prefer the word "appreciation" because if I tell someone, "I appreciate you," he will like that. But if I say, "I evaluate you," I do not think he will like it. *(Laughter)*

THE PRESIDENT. Are we ready to vote now?

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I think I still would like to object to the formulation. As formulated now, the amendment sounds like a graduate course in history. I think that with all the deliberations, including the deliberations within the concept of nationalism, this can be expressed in subsequent curricular plans. So, I suggest that it will not be included as part of the Constitution, but merely as part of the Record to serve as guideline to future curriculum planning.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. One last observation. The committee said that this need not be interpreted as a focus of a subject matter, rather as an attempt to define only a major thrust. And upon our query, Commissioner Gascon said "thrust in the study of history." How else does the committee intend to operationalize a specific constitutional focus on the lives of heroes unless it is given particular attention as a subject matter in the curriculum? If the intention, therefore, is to interpret it to define the thrust, we might just as well delete it.

MR. GASCON. Yes.

MS. AQUINO. According to my original manifestation, I am clearly intending that history or classes on nationalism or history would focus on the lives of heroes.

MR. GASCON. Yes, the whole paragraph speaks of the thrust of education. It does not speak of subjects or courses.

MS. AQUINO. I was only invoking Commissioner Gascon's argument to reinforce our position in objecting to the amendment.

MR. GASCON. Yes, that is correct. In fact, I may be a minority in this committee, but I personally feel that the amendment is unnecessary. I join Commissioner Bennagen and the Commissioner in this position. But, again, that is why I would like to clarify. Even if this is again, I would like to clarify. Even if this is approved by the Commission, this does not mean that it will be the creation of a separate subject, because I feel accommodated in the present history subjects which we already have in our curriculum.

MS. AQUINO. If the amendment wins, that will be our consolation.

Thank you.

MR. GASCON. Yes.

MR. RAMA. Madam President, the body is now ready to vote. We cannot delete, as suggested by Commissioner Aquino, because the phrase has not yet been voted on.

So, I ask that we take a vote on the amendment of Commissioner Bernas to the amendment of Commissioner Tingson.

THE PRESIDENT. Will Commissioner Bernas please read what is to be inserted?

FR. BERNAS. Madam President, my amendment will be inserted after "human rights." Delete the word "and" at the beginning of line 5, then add a comma after "human rights" to be followed by "AND APPRECIATION OF THE ROLE OF NATIONAL HEROES IN OUR HISTORICAL DEVELOPMENT."

VOTING

THE PRESIDENT. As many as are in favor of this particular amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 18 votes in favor, 10 against and 2 abstentions; the amendment is approved.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. While Commissioners Bernas and Tingson would like to add one more phrase in this litany, I would like to delete the words "strengthened ethical and spiritual values" on lines 7 and 8.

BISHOP BACANI. Madam President, anterior amendment.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. I wanted to stand up, but Commissioner Bernas got ahead of me. I want to propose an amendment on line 4 which is to add "GOD AND" after "of" so that the line would read: "shall FOSTER nationalism, love of GOD AND fellowmen."

MR. VILLACORTA. The committee accepts the amendment.

BISHOP BACANI. I thank the Commissioners very much.

REV. RIGOS. Madam President, I have a proposed amendment on lines 7 and 8.

THE PRESIDENT. Let us first vote on the proposed amendment of Commissioner Bacani.

MR. SARMIENTO. Madam President, may I introduce an amendment to the amendment of Commissioner Bacani. My concept of nationalism covers love of fellowmen. So my amendment is for the deletion of "fellowmen" and I am willing to adopt "love of GOD."

MR. VILLACORTA. Madam President, may we explain the intent of the committee?

"Love of fellowmen" refers to love of all men regardless of nationality. So it is not confined to love of Filipinos only. I think it is a necessary value that we love our fellowmen regardless of nationality.

BISHOP BACANI. I agree with that, Madam President.

THE PRESIDENT. Is Commissioner Sarmiento satisfied?

BISHOP BACANI. I think the committee's explanation is beautiful.

THE PRESIDENT. Commissioner Sarmiento is satisfied with the explanation.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I am not against enshrining the love of God as a constitutional principle. In the Preamble, we did implore the aid of Almighty God, but that is in connection with the directive principle of an entire constitution. When we come to a section on education, a necessary point is to be raised about the diversity of beliefs in a given society including nonbelief to an Almighty God. I wonder if the insertion of this phrase in the section concerning educational thrust might create some kind of a constitutional fiat against those, no matter how few they might be, who, for example, believe in the doctrine of historical materialism and atheism. Will their interests as Filipinos be denied with the mention of the love of God in an educational section of the Constitution? If the committee can answer that, then I think a gap in the record of these proceedings on the debate concerning educational thrust will have been overcome because there should be no such vacuum in the record asserting the interest of nonbelievers.

MR. VILLACORTA. Madam President, I think the right of nonbelievers is not violated in this aspiration because there is no sanction against the profession of theism or belief in God as expressed in this amendment of Commissioner Bacani. So the committee does not feel uncomfortable because this amendment does not really illegalize atheism.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Before a fuller answer to the question of Commissioner Ople can be arrived at, may we ask Commissioner Bacani how we intend love of God to be operationalized in the educational system.

BISHOP BACANI. First of all, we must remember that it is the stated thrust of education to develop people of moral character. To develop morality, we need a foundation for that morality, and there is no better foundation of morality for people who are generally religious than God Himself. That is why I propose that to be "explicitated" in this Constitution.

MR. BENNAGEN. That does not explain how this is to be worked out in a curriculum.

BISHOP BACANI. No, because precisely this is not a working out of the curriculum as was pointed out very well by Commissioner Gascon.

MR. BENNAGEN. But it does suggest to education planners how to work this out in future curriculum programs.

BISHOP BACANI. They have to use their creative thinking for that and that is also provided.

MR. BENNAGEN. No, but we have to anticipate because we might just be putting empty words in the Constitution.

BISHOP BACANI. I can give some examples, but I do not intend these examples to be exhausted. For example, when a teacher is teaching a subject about the created world, he can describe and say: "Look, this created world cannot be explained unless we have some recourse to some being whom we call 'God.' " Or one can stress the fatherhood of God while inculcating the love of fellowmen and nationalism. So all of these are different ways of incorporating love of God which are, by no means, exhaustive.

MR. BENNAGEN. This suggests that we are equating in this provision the development of moral character with belief in God and also suggesting that those who do not believe in God cannot have the possibility of developing strong moral character. I think this is the contention of Commissioner Ople.

BISHOP BACANI. I am not saying that. But what I am saying is, love of God is the best foundation for the development of moral character.

MR. BENNAGEN. That is one position, but there are other positions.

BISHOP BACANI. Yes, so let us submit this to a vote.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. I would like to confess. I believe very deeply in fostering love of God, but I am not sure at all whether or not we should constitutionalize this. The Constitution might begin to sound like a document of a church assembly which is all right, except that the implication may be something not acceptable especially to those who have no belief in God at all. We should not preempt the churches from their duties of inculcating love of God. To relate this especially to the thrusts of our educational institutions can be very much misunderstood by the churches which stick to the principle of the separation of Church and State. We would like to put on record our firm belief in the value of fostering love of God. But this Representation, Madam President, does not seem to agree to the idea of putting that in this Constitution.

MR. VILLEGAS. Madam President.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. May I just volunteer an information. Singapore has a Prime Minister, Lee Kuan Yew, who is a self-proclaimed agnostic. He does not believe in anything. He has been very concerned about the moral education of the people of Singapore and alarmed at the way they became overly materialistic. And about five to six years ago, he created a committee to work out a character and moral formation of the citizens of Singapore and he actually sought religious leaders. Actually, the chairman of this committee was the parish priest of the Catholic Church in Singapore. The Prime Minister did not, in any way, hesitate to identify religion and a belief in God, whether it be by Christians, Muslims and Hindus, as a very important foundation of civic virtues and character formation of the citizens. That is why in a country which is predominantly Christian and Muslim like the Philippines where belief in God is very basic to our society, I do not think we should hesitate in the same way that Lee Kuan Yew did not, in any way, think that the separation of Church and State was being threatened by his actually creating a committee and appointing a Catholic chaplain as the chairman. So this is an information I would like to volunteer.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. I just would like to emphasize the point that the question of the separation of Church and State is in no way at stake in this amendment.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I just be enlightened on two points before we vote on this amendment of Commissioner Bacani. The first question is: Would this not, in any way, impair academic freedom?

BISHOP BACANI. I do not think so, in the same sense that the teaching of the Constitution will not, in any way, impair the academic freedom.

MR. DAVIDE. Since this proposal will be built into the Constitution itself, may a person or a professor who does not believe in God be later on prohibited from teaching because how can he teach love of God if he does not even believe in God?

BISHOP BACANI. No, it is not the individual person who is supposed to promote this but all educational institutions.

MR. DAVIDE. Yes, but a professor is part of the educational system.

BISHOP BACANI. That is correct.

MR. DAVIDE. So may he, who does not believe in God, be actually thrown out of school because he cannot foster a very concept which is supposed to be fostered by the educational institution?

BISHOP BACANI. No, that is not the intention of the proposal.

MR. DAVIDE. Thank you.

THE PRESIDENT. Commissioner Aquino desires to be recognized.

MS. AQUINO. Madam President, I do not want to be misunderstood by Bishop Bacani. I am a firm believer in God, but I have a lot of doubts constitutionalizing the love of God particularly in the Article on Education. If we want to operationalize a constitutional provision on the love of God, would this not eventually amount to religious instruction? Would this not infringe academic freedom the way we understood it – academic freedom in the level of the institution, the faculty and the students?

For some of us, the question may seem pedantic; but for me, it is very basic. It will, in the end, determine the kind of freedom we seek and the kind of democratic institutions we want to build, and this raises serious and critical questions about the freedom of belief and of conscience.

MR. UKA. Madam President.

THE PRESIDENT. Commissioner Uka is recognized.

MR. UKA. I agree with Bishop Bacani that the firm foundation of morality is God. God loves us. What is wrong in loving Him also? We say that the mention of God should not be in the Constitution, but we mention God Almighty in the Preamble, which is the first part of the Constitution. Morality cannot be successful in thought without a firm foundation which is God who loves us; in return, we should love Him.

Will Commissioner Bacani agree if we substitute the word "fellowmen" with "HUMANITY" so that it will be more general?

BISHOP BACANI. Actually, it is "fellowmen."

MR. UKA. Yes, but if we say "love of GOD AND fellowmen," the women will not appreciate it very much unless we say "fellowwomen." So we better use the word "HUMANITY." Does the Commissioner not think so? "HUMANITY" is inclusive.

BISHOP BACANI. I am amenable to that. It will be the committee's amendment then.

MR. UKA. Thank you.

BISHOP BACANI. I thank the Commissioner.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Just a few questions of the proponent. If the proposal to impose the obligation in schools to foster love of God is adopted, would such command be addressed to both private and public schools?

BISHOP BACANI. Yes, Madam President.

FR. BERNAS. It would be. And since the fostering is not done by the school but rather by the teachers and administrators, would this command be addressed to all teachers of private and public schools?

BISHOP BACANI. It will be addressed to the teachers according to their conscience.

FR. BERNAS. According to their conscience?

BISHOP BACANI. Yes. Just as, for example, when people take the oath to the presidency, they take it with an affirmation or an oath to God.

FR. BERNAS. And, therefore, for those who accept this, in their effort to foster love of God, would they be supported by tax money?

BISHOP BACANI. Yes, just as the teaching of arithmetic, reading, writing is supported by tax money.

FR. BERNAS. Would the Commissioner agree that fostering the love of God is done mainly through the teaching of religion?

BISHOP BACANI. No, not necessarily. It can be the teaching of religion, some occasional comments or a good example from the teacher. In fact, it is the holiness and good example of the teachers, their inspiring moral lives, that will help foster the love of God.

FR. BERNAS. But is it not a fact that whether the subject is religious history or mathematics, if what we are talking about is God or an appreciation of the love of God, we are, in fact, touching on religion?

BISHOP BACANI. Whenever we are doing an act that is really according to the will of God, we are performing a religious act in a wide sense.

FR. BERNAS. So that the Commissioner is commanding schools and teachers to perform religious acts.

BISHOP BACANI. In other words, the Constitution commands them to lead exemplary lives.

FR. BERNAS. How would that be differentiated from the phrase "ethical and spiritual values" as contained in the article?

BISHOP BACANI. I am not yet at that point. I do not know whether or not I would agree explicitly with that particular point as something to be taught. But in actual practice, this will have to be also taught by, first of all, the teacher's example.

FR. BERNAS. And how would the Commissioner recognize this obligation to foster love of God with the idea of optional religious instruction?

BISHOP BACANI. This will be a complement to the optional religious instruction.

FR. BERNAS. So, in other words, the optional religious instruction is complemented by obligatory fostering of the love of God?

BISHOP BACANI. Yes, for those whose conscience can bear it.

FR. BERNAS. I thank the Commissioner. I think the proposal can be very divisive and the object can be accomplished through optional religious instruction and through other nontheistic approaches. I think we are formulating a constitution for a pluralistic society.

BISHOP BACANI. On the other hand, Madam President, I believe that following the thinking, for example, of an anthropologist like Minister Lourdes Quisumbing, who says that Filipino psychology is basically a religious psychology, will not be divisive but unitive in the highest degree.

THE PRESIDENT. Commissioner Laurel is recognized.

MR. LAUREL. I understand that although most of us believe in God and the majority of us are Christians, even Catholics like this humble servant, what we have in this country is religious freedom and not mere religious tolerance. There is separation of Church and State; we do not have any established religion in our pluralistic society and the Constitution is for each and every Filipino and, as a matter of fact, for each and every human being.

In other words, even if one is an atheist, an agnostic, a disbeliever or a doubter, he is entitled to the protection under our Constitution and the laws of the nation. Would it not be better not to approve this amendment, and enable each and everyone of us to really be free irrespective of religious beliefs or failure to believe in any particular religion or being merely a doubter?

BISHOP BACANI. Madam President.

THE PRESIDENT. Is Commissioner Bacani insisting on his amendment?

BISHOP BACANI. Yes, I am insisting on it.

THE PRESIDENT. So let us put it to a vote.

MR. NOLLEDO. Madam President, may I speak against the amendment for only two minutes.

THE PRESIDENT. Commissioner Nolledo may please proceed.

MR. NOLLEDO. I think I am embarrassed by the amendment because, pardon me, if I say that as former national president of the Holy Name Society, I am expected to support it. But I am against it, taking into account the observations of Commissioner Bernas. It will violate the freedom of religion, because the freedom of religion includes the disbelief of a person. It will violate our pluralistic society and the separation of Church and State. Also, it will make our government look like an ecclesiastical government.

While I firmly believe in God and manifest my support for optional religious instruction, I vigorously object to the Bacani proposal.

Thank you, Madam President.

MR. OPLE. Madam President, just one final word.

THE PRESIDENT. Commissioner Ople, I hope it is final.

MR. OPLE. Those who will vote against the Bacani proposal will be at a risk of being misunderstood by the public as spurning God from the Education Article of this Constitution. I wonder if there is a way of determining the possibility of settling this in an amicable manner.

Madam President, if probably a suspension of one minute is called before we vote, we might get some illuminations from above on how to deal with this question.

Thank you.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 4:40 p.m.

RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. ROMULO. I ask that Commissioner Bacani be recognized, Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, may I ask three questions of the committee.

THE PRESIDENT. The Commissioner will please proceed.

BISHOP BACANI. Madam President, do I get it from the committee that the noninclusion of the phrase "love of GOD" does not mean that fostering of the love of God is excluded from the aims of the educational institutions, as they are put down here?

MR. VILLACORTA. No, noninclusion does not mean exclusion.

BISHOP BACANI. Thank you very much.

Second, I would like to ask the question: Are the aims set down in this section to be taken in the context of the Preamble of this draft Constitution?

MR. VILLACORTA. Yes, Madam President.

BISHOP BACANI. Thank you very much.

Third, does the Commissioner agree with me that in the Preamble of the Constitution, the aid of Almighty God is invoked?

MR. VILLACORTA. Yes, Madam President.

BISHOP BACANI. Thank you very much.

In view of those responses, I am willing to withdraw my amendment. *(Applause)*

THE PRESIDENT. So the proposed amendment is withdrawn.

REV. RIGOS. Madam President.

THE PRESIDENT. Is there any other amendment?

REV. RIGOS. Madam President, on page 2, lines 7 to 8, delete "strengthened ethical and spiritual values." Strengthening of ethical values can be considered as covered by these words on line 8: "develop moral character." And strengthening of spiritual values may be best left to the churches, which after all will be allowed to teach religion on optional basis in the schools.

MR. VILLACORTA. Madam President, the committee is divided, and we would like the body to decide on this issue.

REV. RIGOS. May I elaborate on my proposal, Madam President.

THE PRESIDENT. The Commissioner will please proceed.

REV. RIGOS. Once the schools begin to operationalize the strengthening of spiritual values, how do we implement that? Very soon there will be prayer meetings, celebration of the mass and all kinds of religious activities to strengthen or develop moral values. We probably would not like this to happen in our schools, especially in the context of separation of Church and State. Spiritual values formation is better left to the different churches and religious organizations.

MR. VILLACORTA. Commissioner Gascon would like to elaborate on that.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. When we speak of strengthening of ethical and spiritual values, we do not see it within that context – that soon enough in our schools which are, let us say, public universities and colleges there would be prayer meetings held inside the classrooms during class hours or things like that. Rather, when we speak of education, we think of it from the holistic point of view or from a perspective that to build the total man or to encourage the development of man, the teacher must, in his process of inculcating knowledge, also encourage ethical and spiritual values which are innate in a person. So it is more an encouragement and development of the values which are already inherent in man.

REV. RIGOS. I think that should be appreciated, but the fact still remains that we better stick to the principle of allowing the churches to do what they are supposed to do, which is to strengthen the spiritual foundation of human life. We should not give any semblance of the State trying to do the same thing.

BISHOP BACANI. Madam President, may I comment.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Let us remember that, as was pointed out by Commissioner Bernas, the school is composed of people and if the people are the ones who conduct the activities of the school, there should be nothing wrong if the pupils themselves within the educational institution should decide to pray within the school. That is part of their prerogative; that is no breach of the principle of the separation of Church and State.

THE PRESIDENT. Are there any other comments?

MS. NIEVA. Madam President.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. I think in our omnibus definition of the goals of education, we were talking of total human liberation and development. By total human liberation and development, we meant the whole of man, all aspects – intellectual, physical and spiritual – of the human being. And, therefore, I feel that ethical and spiritual values are an indispensable ingredient for the total development of man. And since the schools are the molders of our youth in support of parents, the church and media, I think they cannot shirk that very vital obligation to support the other institutions of society in the formation of the youth into the men and women we want them to be, to be responsible citizens. When we say "develop moral character," we are talking of the development of the moral character of the individual. But when we talk of values, we talk also of values of the whole of society. So when we teach any subject, there are always values attached to it. Whether our values are materialistic or not or whether or not we are talking of a consumerist attitude towards society, those are values that we do not want to foster. On the other hand, we want to foster the values of critical thinking, of independence and of service to fellowmen which are already stated here. But honesty and the work ethic are ethical values that I think the schools should promote. While we say that the principal obligation of promoting spiritual values belongs to the churches, I think the school should be a very strong supportive institution in this very important aspect. I remember the discussions we had with Minister Quisumbing of the Ministry of Education, and precisely she said that now the stress is on ethical value formation. The ministry wants to stress this now at all levels – from the primary level up to the tertiary level and even the graduate schools. In fact, in Baguio there was a conference last summer where ethical formation was very much strengthened. In that seminar, the Bishop Businessmen's Conference was asked to be part of the facilitators team that would sponsor values on social responsibility for the top-level directors of all the different schools. I think that is also the thrust of our Ministry of Education. So, I really do not see why we should exclude this very important aspect here providing for the strengthening of ethical and spiritual values.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

REV. RIGOS. May I just amend my suggestion, Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. I am willing to retain the word "ethical" but not the word "spiritual." I repeat, the strengthening of spiritual values is better left in the hands of our churches.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. This is the first time I have heard of the amendment by our fellow Commissioner Rigos. So that I could also vote intelligently on it, may I ask him some questions. Since the Commissioner was the one who submitted this particular formulation, how does he distinguish between ethical and spiritual values? What does he really mean when he suggested this to us? How is "developing moral character" distinguished from ethical and spiritual values and morality of character? I really would like to know from the committee.

REV. RIGOS. Madam President, I am a member of the committee and although I am not sitting in front right now, I would like to participate in answering the question. I think it will be honest of me to say that when we put this phrase here, we really did not have a thorough discussion on the finer meanings of ethical and spiritual values. We just felt that this is a beautiful phrase that should be included here. But at least, in my case, on second thought, I strongly feel that the development of spiritual values is better left in the hands of the churches.

THE PRESIDENT. May we hear from the other members of the committee.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. I am the Chairman of the Subcommittee on Education. Although we did not have an elaborate discussion on this, I do remember that the principal thrust that we had in mind when we added this particular portion of the section upon the suggestion of one of the members, whom I cannot recall now, is on the importance of value education.

MR. TINGSON. May I hear from the other committee members, especially the chairman.

MR. VILLACORTA. The distinction between ethical and spiritual values about which the Commissioner is inquiring would be derived from my own interpretation, not the committee's. My understanding of spiritual values is that these are deeper and more transcendental than ethical values. It would be almost other than wordly, not only thinking in terms of this material world but also of the other world. In other words, we are not concerned mainly with social and political values, moral character and personal discipline, but also of being accountable to a Supreme Being.

MR. TINGSON. And is this something that only the churches could and should teach?

MR. VILLACORTA. Again, I am speaking for myself. I think there is nothing wrong with spiritual values being reinforced in a secular manner, outside of churches and within the school system. That is my own personal conviction. I am not speaking on behalf of the committee.

MR. TINGSON. How about "moral character"? What is the understanding of the committee, through the Commissioner, about "developing moral character"?

MR. VILLACORTA. "Moral character," as I have implied earlier, refers to ethical values — the ability to discern what is right and wrong.

BISHOP BACANI. Madam President.

MR. GUINGONA. Madam President, may I just add, if I may be allowed? This particular section contains quite a number of enumerations some of which the Subcommittee on Education approved unanimously. But I do recall that with regard to the expression "strengthen ethical and spiritual values" the committee was divided, but the majority was in favor.

MR. GASCON. Madam President, if I may add on this issue of "value education." We believe that educational institutions must inculcate values in the students as complementary to the primary duty of the parents in rearing their children. The State has the duty to give aid and support to the parents in the rearing of the youth. As agents of the State, educational institutions are tasked with complementing the values learned by the child at home. It is assumed that what is learned in the family is not enough and should be supported by what is taught in the school.

So when we speak of these principles and thrusts, our attempt is this: That education should encourage total human growth. The development of an individual should take place in all levels of his relationships. For example, his relationship to himself which refers to moral character, personal discipline, critical and creative thinking; his relationship with others, the love of fellowmen, the respect for human rights; his relationship with his environment, health, political and ecological consciousness; his relationship with society, nationalism, rights and duties as citizen, work-oriented efficiency; and his relationship with the transcendent reality which some of us call God, ethical and spiritual values.

So if we wish to speak of the total human person, then we have to direct the educational institutions to achieve and encourage these facets in man.

Thank you, Madam President.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Thank you.

First, I wish to thank the committee, especially Commissioner Gascon, for that beautiful explanation. Let me just add this: If we delete "spiritual," it will definitely give the impression that what we are really advocating is a materialistic and secularistic type of education. In other words, it will not be simply deleting something in order not to sound spiritual or not to breach the rule of the separation of Church and State but it will be really slanting the aims of education in favor of a materialistic and secularistic concept. I would just like to add that to the explanation of Commissioner Gascon.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. As a member of the committee, I just want to share how I understand the phrase "spiritual values." It is said that Filipinos are a deeply spiritual people. In a way, this was not anticipated by electronic evangelization and I think this was partly manifested in the EDSA uprising. It is manifested in the tenacity of peasants who keep on going when everything seems to go wrong. And I think it is also manifested in the equanimity or sense of proportion of someone who is seduced by power or material wealth.

In other words, spirituality is a complementary dimension of human materiality and has nothing to do, in my view, although that seems to be the popular impression, with electronic spirituality

I am saying, therefore, that a kind of Filipino spirituality is what we are speaking of here, not in terms of spiritual renewal as is usually expressed in TV programs. And I see that, of course, as a danger in this phrase, unless it is so expressed.

Adverting again to what I refer to as a kind of Filipino folk spirituality, which is my understanding of this Filipino spirituality, there are a number of investigations into this by sociologists and anthropologists. I will just read one instance based on an understanding of folk religions. This is in reference to the use of "potencia" or "bisa."

> Ang "potencia" o "bisa" na nasa mga bagay at tao ay makakamit sa pagkakaroon ng malinis na puso, budhi at diwa at sa masusing pagtupad ng rituwal, gaya halimbawa ng taimtim na pagdarasal.

In some other areas, they speak of a kind of spirituality which urges the individual to do that which is good and, therefore, brings us closer to the discussion of ethics and morality. Spirituality, therefore, speaks of an inner celebration of life as it sees itself in unity with the significant others, whether it is of nature or of society.

Thank you, Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, just some clarificatory questions addressed to the committee. When the draft article speaks of "moral character and personal discipline," would it be correct to understand that as referring mainly to behavioral patterns?

MR. VILLACORTA. Madam President, if by behavioral pattern the Commissioner is thinking of visible manifestations of personal behavior and action, then we would not be limiting moral character to that, because moral character also includes the internal aspect – one's own self-respect, sense of values and concept of integrity.

FR. BERNAS. But then the main emphasis would be on how one acts out of the wellspring of his own values.

MR. VILLACORTA. Yes.

FR. BERNAS. The reason I am posing this question is that it would seem to me the emphasis of the phrase "ethical and spiritual values" is not so much on the behavioral patterns but on the attitudinal and intellectual perception of things.

MR. VILLACORTA. That is right.

FR. BERNAS. And would it also be correct to say that when we speak of spiritual values, we are not necessarily talking of religious or theistic values but mainly of nonmaterialistic values?

MR. VILLACORTA. Yes, that is correct.

FR. BERNAS. And that when we speak of religious values, they would be more in Section 3 (c).

MR. VILLACORTA. That is right, I might also point out that even in China, although the term "spiritual" is used – in fact, they are always mentioning, if I am not mistaken, the need for a spiritual civilization – what they were referring to is a nonmaterial, nonworldly type of culture and set of values.

FR. BERNAS. And it can be quite independent of whether a person believes in God or not.

MR. VILLACORTA. I think so. I agree with the Commissioner in that interpretation.

FR. BERNAS. I thank the Commissioner.

REV. RIGOS. Madam President, in the light of Chairman Villacorta's answers to the questions of Commissioner Bernas, I withdraw the proposed amendment.

MS. ROSARIO BRAID. Madam President, for the sake of more definition, I have here a definition of "spiritual values," which includes wisdom, intellectual and artistic creativity and moral excellence or virtue. These are all classified under "spiritual values."

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. What I would like to say has become somewhat academic because of the decision of Commissioner Rigos to withdraw his amendment by deletion in the light of Commissioner Bernas' elaboration on the meaning of "spiritual values," which I am not sure the committee has accepted, in view of some diversity in the opinions expressed earlier.

May I just repeat the question, not exactly in the way Commissioner Bernas formulated it but as a kind of exegesis on his own elaboration. The "spiritual" here is not necessarily a theistic concept.

MR. VILLACORTA. That is right, Madam President.

MR. OPLE. It can refer to the spirit of a nation, for example, in the manner that, let us say, in Japan the spirit of Bushido moves a nation to excel even in trade and commerce and in production. This can fall within the scope of spiritual values.

MR. VILLACORTA. Yes, Madam President. It could also refer to the psychic which the Commissioner is familiar with.

MR. OPLE. That is right. In the case of "ethical values," in the Aristotelian sense it refers to an ideal political order; let us say, the vision of Plato's *Republic*, which is a just society according to the lights of those thinkers in the earliest democracy.

Will "ethical values" also refer to the foundation of a sound and just state?

MR. VILLACORTA. Does the Commissioner mean "spiritual values"?

MR. OPLE. No, "ethical values."

MR. VILLACORTA. "Ethical values," yes, Madam President.

MR. OPLE. I thank the Commissioner very much.

MR. GASCON. Madam President, just to make it more clear. When we speak of the word "spirit," for example, in the Filipino sense, there are two translations: the religious, theistic translation "kaluluwa" and the other sectarian, nonreligious translation "diwa," "diwa ng pagka-Pilipino."

So, in that sense, we will see that our perspective towards spiritual values is not theistic at all.

MR. OPLE. I thank the Commissioner for that reassurance; thank you, Madam President.

MR. ROMULO. Madam President, I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Madam President.

On page 2, line 4, between the words "foster" and "nationalism," insert the words "PATRIOTISM AND."

MR. VILLACORTA. Madam President, the committee accepts the proposal.

MR. PADILLA. I thank the Commissioner very much.

Line 9 reads: "encourage critical and creative thinking." Will the committee consider changing the word "critical" to "LOGICAL"?

MS. ROSARIO BRAID. I am sorry, we cannot accept the proposal, Madam President, because the word "critical" here means that ability to be independent of thought; it is much more than logic. It includes logic, but it goes beyond that: to be able to weigh various aspects of the situation and to think independently. Logic, of course, is an aspect. So we would prefer to use the word "critical."

MR. PADILLA. Before we become critical, we should first be logical. And the word "critical" might give the impression that we are encouraging not only creative thinking but also critical thinking which may mean to find fault, to criticize.

Of course, criticism is necessary in the exercise of free expression and freedom. But to be able to criticize, I think it is a prerequisite that the criticism be based on logical reasoning.

There are many who do not follow the basic principles of syllogism. And to me, we should encourage in the students logical and creative thinking. Now if by virtue of logical and creative thinking some wish to criticize because they feel that the conduct or policy of government should be criticized as not being correct nor righteous, or is not just nor morally defendable, then we should have criticism because that is part of freedom. But I believe that for the students to think, they must first think logically. And, of course, I do not object to creative thinking.

If the committee insists on the word "critical," can it consider "LOGICAL, creative and critical thinking"?

MR. VILLACORTA. How about "ANALYTICAL," Madam President, instead of "LOGICAL" – "ANALYTICAL, critical and creative thinking"?

MR. PADILLA. In addition to analysis, that is like appraising the facts. But what is more important is that in appraising the premises, the conclusion is in accordance with the rules of syllogism and of logic.

I would not have any particular opposition to the word "analytical," but I believe the word "LOGICAL" is more simple and definitely closer.

MS. ROSARIO BRAID. Madam President, I think the committee would like to retain the word "critical" because it includes logic, analysis and rationality. But beyond that it also includes deep awareness and sensitivity and consciousness. It involves even nonrational or non-Western modes of thinking, like intuition. In other words, it accommodates the various ways of looking at the world beyond just the rationality. And I think that is what we tried to copy here.

MR. PADILLA. Precisely, when I mentioned "LOGICAL," I want to exclude nonrational. We agree with the Commissioner that nonrational is not good.

FR. BERNAS. Madam President.

MR. PADILLA. If the committee insists on the word "critical," my second alternative is "encourage LOGICAL, creative and critical thinking."

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. May I offer an idea. I think logical and critical are two different concepts. "Critical" comes from the Greek word *krinein,* which means to judge, to be able to evaluate things, and not just to take things at face value. Logical means the ability to arrive at conclusion on the basis of premises.

MS. ROSARIO BRAID. That is correct.

FR. BERNAS. So being critical involves the choice of premises and the weighing of various premises from which one is going to start his logical process. I think the committee's aim here is to make students precisely the type of students who will not accept things at face value but rather who would look at them from all angles and make a decision on whether or not to accept the concept, particular value or practice. And having accepted one value, practice or premise, then he logically thinks and acts on the basis of that premise. So that if at all, rather than we delete "critical," we add "LOGICAL."

MR. PADILLA. That was my second alternative, "encourage LOGICAL, creative and critical thinking." In logic, it is not enough to have one premise in syllogism. There is the major premise, then the minor premise and the conclusion which should be correct. But there are many fallacies or sophisms in argumentation. That is the justification for the Latin *non sequitur* – if the conclusion does not follow from the major premise and the correct minor premise.

I have no particular resentment to the word "critical," but I would suggest the insertion of the word "LOGICAL," because one must first think logically.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I would like to support the committee's formulation and, at this point, I think the very able Commissioners who had preceded me had not really succeeded in improving upon the original terms used; namely, "critical" and "creative." The opposite of critical is uncritical, which means uncritical acceptance of, let us say, anything put to the student by the teacher or what a textbook purports to teach to the students. It means that a dialogue or a dialectical situation exists between the receiver and the transmitter of knowledge. Part of the misunderstanding, I think, arises from the perception of what the word "critical" means in this context. It really does not mean automatic criticism of anything or anyone; it is, in the literature of political science, sociology and psychology, a well-established meaning. It merely means that there is a response from the receiver of knowledge. It means a dialectical exchange is taking place even if the student is, for the moment, silent. It means that one with a sound mind, who reads a book, does not accept uncritically the postulates of the author. He debates with the author and accepts on a highly selective basis what ideas the author has made available through this book. So it is a frame of mind in democracies sought to be cultivated, just like in the creative thinking which Commissioner Rosario Braid had earlier talked about. This is thinking laterally in the words of Edward de Bono, so that intuition becomes a very important part of the process, especially where inventions and innovations are concerned. The inventor's way of thinking is not exactly the same as that of a mathematician or physicist dealing with his own hypothesis which could involve highly analytical approach. In the case of the creative thinker, he proceeds laterally so that he is not bothered by an analysis at the beginning, although an accumulation of knowledge and research inputs can become a sort of critical mass that translates into a sudden insight so that whether he is an author or a scientist, he says: "Eureka! I have come upon new knowledge!"

So, Madam President, in the light of these now historic and valid meanings attributed to the two terms in the literature about thought, I would like to strongly suggest that, with all due respect to Commissioner Padilla, the term "critical" cover abundantly his concern for rational thinking, especially analytical thinking. And to balance the concept of an analytical frame of mind, we also provide for a creative, nondescript, lateral sort of thinking which has its own place in developing a country, especially where innovations of the sort this Constitutional Commission deals with can be further accelerated through the use of creative thought.

MR. VILLACORTA. Madam President, the committee is divided and we would like the body to decide on the matter.

MR. PADILLA. May I say, Madam President, that truth is immutable. There are certain facts that cannot be disputed. If we inculcate on even the young minds not logical thinking and say: "Well, you dispute whatever the author says in the book for what the professor says is a principle of law," we will be cultivating persons who are dissenters, doubters and perhaps agnostics, if applied to religion, and we will not have certain major premises that are established and immutable facts or truths. I always hear the word "perceptions." That word does not mean that an individual can just express his own perception because, after all, as provided in the Rules on Evidence on the qualification of a witness, all persons having sense organs can perceive, and perceiving can make known their perceptions to others. This is based on personal knowledge which excludes hearsay evidence.

If on "perceptions" we always say a student has his perception or this person has another perception, that will not be the correct meaning in law on evidence because perceptions must be based on actual personal knowledge, not on inferences, opinions or even judgments. So from what a person perceives through his sense organs, he then mentally or intellectually follows logical thinking, which is absolutely necessary before he can think creatively and critically. I cannot understand why there are objections to the word "LOGICAL." I believe that one of the greatest insults to a man is when somebody calls him illogical, because everybody must be logical. We must have the students, especially in their young, immature minds, accept certain facts, not only of science but also of other facts of life and religion as a dogma based not only on faith but also on actual facts based on the personal knowledge of individuals.

I cannot agree on the extended meaning of the word "perceptions" because it might imply only inferences or even conjectures which are not based on personal knowledge. That is the basic reason why in the Rules on Evidence a witness can only testify to facts of his personal knowledge perceived by his sense organs.

MR. OPLE. Madam President, may I have just a brief rejoinder of two sentences on this question. I would be very happy to endorse the insertion of "LOGICAL" here, if it would not result in some tautulogy which, in a sense, would unnecessarily modify the word "critical." I cannot imagine a constitution practically exhorting the reader to be logical. According to Commissioner Padilla's own profession, in which he is a most outstanding authority, there must be a presumption of regularity and good faith. We have to presume that people who read this Constitution are logical until proven otherwise. However, there can be no easy assumption that critical and creative forms of thinking are already preexisting; they are skills that can be developed through education.

I do not deny that logic and rationality are also promoted by education. But when we say creative and critical thinking, they do embrace the use of certain disciplines like logic, whether this is Aristotelian, positivistic or historical materialist logic. And, therefore, they are available to the creative and critical thinker. I think Commissioner Padilla's mention of rationality has, in fact, very much enriched the record of the intent of this Commission concerning the true meaning of critical and creative thinking.

Thank you, Madam President.

MR. ROMULO. Madam President.

THE PRESIDENT. Will the Commissioner please restate his amendment?

MR. PADILLA. On page 2, line 9, insert "LOGICAL" between the words "encourage" and "critical," to read: "encourage LOGICAL, creative and critical thinking."

VOTING

THE PRESIDENT. As many as are in favor of the amendment of Commissioner Padilla, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 5 votes in favor, 17 against and 2 abstentions; the amendment is lost.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. ROMULO. The committee is asking for a respite in view of it having gone through the whole field of education, morals, philosophy, logic and metaphysics. I think the Aristotelian, positivist and Whiteheadian deserve a rest. So may I make a motion to adjourn until nine o'clock tomorrow morning.

THE PRESIDENT. May I also inquire from the Acting Floor Leader when he expects this Constitution to be finished.

MR. ROMULO. Maybe by Christmastime, Madam President.

THE PRESIDENT. The session is adjourned until nine o'clock tomorrow morning.

It was 6:11 p.m.

R.C.C. NO. 76

Saturday, September 6, 1986

OPENING OF SESSION

At 9:48 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS. Almighty God, Whose nature is love and Whose will is for us to work together in harmony, as we pause before Thy Holy Presence, impart unto us the blessings of eternity. Enable us to rise above the tumults of our time, and make us instruments of Thy peace. Keep us humble in the thought that what we hold to be true may be tainted by some error, and that the error of our neighbors may yet contain some elements of truth.

May our work today contribute to the rebuilding of a nation on the foundation of justice and freedom. Inspire us to serve with utmost dedication so that in the process, we may be saved from pride or cynicism and from every thought of self-glorification.

We pray in Jesus' name. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Absent
Alonto	Present*
Aquino	Present*
Azcuna	Present*
Bacani	Present
Bengzon	Present*
Bennagen	Present
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present*
Davide	Present
Foz	Present
Garcia	Present*
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present*
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present*
Padilla	Present
Quesada	Present*
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Absent
Rosales	Absent
Sarmiento	Present
Suarez	Present
Sumulong	Present
Tadeo	Present*
Tan	Present
Tingson	Present
Treñas	Present*
Uka	Present
Villacorta	Present
Villegas	Present*

The President is present.

The roll call shows 29 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)*. The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Even though I realize that we have a rule regarding corrections, I believe this is an important correction that has to be inserted on page 48, since there is a complete change of sense in a very important answer that was given by Commissioner Villacorta.

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*Appeared after the roll call.

THE PRESIDENT. Please proceed.

BISHOP BACANI. Under "INQUIRY OF MR. BACANI," the last sentence reads: "Mr. Villacorta replied that the noninclusion would mean exclusion." It should be: "Mr. Villacorta replied that the noninclusion would NOT mean exclusion."

THE PRESIDENT. That is true. Is that all?

BISHOP BACANI. I verified this with Commissioner Villacorta and he said that is really the sense.

APPROVAL OF JOURNAL

THE PRESIDENT. Is there any objection to the approval of the Journal of yesterday's session? *(Silence)* The Chair hears none; the Journal, as corrected, is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Mr. Celso A. Landicho, transmitting a resolution of the Sangguniang Bayan of Mataasnakahoy, Batangas, opposing the abolition of the death penalty.

(Communication No. 734 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from eighty-six (86) members of the faculty, staff and students of Convention Baptist Bible College, Bakyas, Bacolod City, urging the Constitutional Commission to incorporate in the Constitution a provision on the inviolability of the separation of Church and State.

(Communication No. 735 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Cirilo M. Vera Cruz, Catholic Action Center Building, Naga City, appealing to the Constitutional Commission for the inclusion in the Constitution of a provision on the right to life and the protection of the fetus in the mother's womb.

(Communication No. 736 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from sixty (60) members of the Campus Crusade for Christ, Quezon City, submitting a resolution defending the freedom of belief, upholding the time-honored principle of separation of Church and State, and opposing mandatory religious instruction in public schools.

(Communication No. 737 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from Ms. Rita Macasaet-Eala and one hundred ninety-nine (199) signatories of San Pablo College, San Pablo City, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 738 – Constitutional Commission of 1986)

To the Committee on Preamble,National Territory, and Declaration of Principles.

Communication signed by three thousand seventy-four (3,074) concerned citizens from various parts of the country, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 739 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the members of Capitol Alliance Church, Temple of God, Foursquare Gospel Church, United Methodist Church, Isulan Christian Center, all of Isulan, Sultan Kudarat, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 740 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from thirty (30) signatories of Oroquieta City, seeking for the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 741 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from seventy-two (72) concerned residents of Merville Park, Parañaque, Metro Manila, expressing strong support for the approval of Proposed Resolution No. 272, entitled: "Resolution to incorporate in the new Constitution a separate article on the protection and promotion of the rights of the family."

(Communication No. 742 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from seventy-four (74) officers and members of the Iglesia Filipina Independiente, F. Torres St., Davao City, P.O. Box 416, appealing to the Constitutional Commission to incorporate in the Constitution that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 743 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from members of the Bureau of Technical and Vocational Education, Ministry of Education, Culture and Sports, Palacio del Gobernador Bldg., Intramuros, Manila, requesting for the inclusion of a section on technical and vocational education, to wit: "The State, in partnership with the industrial and business sectors, shall establish, maintain and support an integrated and coordinated system of technical and vocational education and training for the secondary to tertiary levels for more effective human resource development and utilization.

(Communication No. 744 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from sixty-four (64) officers and members of the Fellowship of Evangelical Churches, Cagayan de Oro City, appealing to the Constitutional Commission to incorporate in the Constitution that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 745 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from the Consistory and Members of the Pulupandan Christian Reformed Church, Pulupandan, Negros Occidental, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 746 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Rosevelinda E. Calingasan, President of Holy Face Organization, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 747 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Pastor Camilo Napila and eighty-five (85) concerned Christians of the Tulong Evangelical Church, Tulong, Urdaneta, Pangasinan, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 748 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Ms. Norma B. Dychangco, District Deputy, Daughters of Mary Immaculate, San Pablo City, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 749 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Ms. Ma. Aurora J. Felipe of PILIPINA-Kilusan ng Kababaihang Pilipino, 12 Pasaje de la Paz, Project 4, Quezon City, transmitting a Statement of Common Position and Concern signed by fourteen (14) signatories urging withdrawal of the proposal to adopt in the Constitution the provision on "the right to life from the first moment of conception."

(Communication No. 750 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Pedro G. Payoyo of Poblacion, Palauig, Zambales, expressing support for the retention of American Military Bases in the Philippines.

(Communication No. 751 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Bro. Rey Lauchengco, President of San Pablo Cathedral Charismatic Community, San Pablo City, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 752 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Antonio W. Perez of Gerona, Tarlac, submitting an article, "Military Bases, Solution to Agonizing Economy" for consideration by the Constitutinal Commission.

(Communication No. 753 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Bro. Mario G. Bunquin, President of the Parish Council of the Laity, San Pablo City, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 754 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Dr. Alejandrino O. Lola, 6090 Thornton Avenue, Newark, California 94560, U.S.A., citing various reasons for the retention of U.S. Military Bases in the Philippines.

(Communication No. 755 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Ms. Natividad P. Dizon, President of Damas de Caridad, San Pablo City, urging the Constitutional Commission to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 756 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Atty. Benjamin Rigor Domingo of 1096 J.P. Rizal, Guadalupe Viejo, Makati, Metro Manila, proposing to the Constitutional Commission that all congressmen should be elected by the people and that the provision providing for sectoral and party-list representatives be deleted.

(Communication No. 757 – Constitutional Commission of 1986)

To the Committee on the Legislative.

Letter from the officers of New Life in Christ Fellowship, Inc., Butuan City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 758 – Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we consider Committee Report No. 29 on the Article on Education, Science, Technology, Arts and Culture. We are now in the period of amendments.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Human Resources will please occupy the front table in order that we may continue the consideration of the proposed resolution on the Article on Education, Science, Technology, Arts and Culture.

MR. RAMA. Madam President, we are going to apply the Rules of the body on the five-minute limit on the proposal for amendments.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I believe the five-minute rule was reduced to three minutes during our caucus.

THE PRESIDENT. All right.

MR. RAMA. Then I stand corrected, Madam President. So, the other condition in the Rules is that a proponent whose amendment was accepted need not explain his amendment unless required by the committee and those whose amendments are not accepted will have three minutes to explain their amendments – two would be allowed to speak in favor and two *en contra* of said amendment before the vote is taken.

May I ask that Commissioner Sarmiento be recognized.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. We distributed this morning a copy of our proposed amendment to Section 3(b). This amendment is being proposed by Commissioners Romulo, Maambong, Lerum, Monsod, Suarez, Bacani, Villacorta, Uka and this Member. The proposed amendment reads: "THEY SHALL FOSTER PATRIOTISM AND nationalism, love of HUMANITY, respect for human rights, APPRECIATION OF THE ROLE OF NATIONAL HEROES IN OUR HISTORICAL DEVELOPMENT, strengthen ethical and spiritual values, encourage critical and creative thinking AND promote scientific, technological and VOCATIONAL efficiency."

May I explain briefly, Madam President, the reasons for this proposed amendment.

THE PRESIDENT. The Commissioner will please proceed.

MR. SARMIENTO. We humbly submit, Madam President, that the words "PATRIOTISM AND nationalism . . . respect for human rights" cover the phrase "teach the rights and duties of citizenship," that is why we move for the deletion of the phrase "teach the rights and duties of citizenship." We also believe that the words "PATRIOTISM AND nationalism . . . respect for human rights" cover the phrase "instill political, health and ecological consciousness and service to society." We also believe that the phrase "strengthen ethical and spiritual values" covers the words "develop moral character and personal discipline." What I have in mind, Madam President, was the work of the late Jose P. Laurel, Sr., *Forces That Make A Nation Great,* in his article, "The Value of Ethical Principles," he said that ethical principles would cover moral character and personal discipline.

Madam President, we moved for the deletion of the words "and impart liberal education" because what we have in mind were the words of Commissioner Bernas during the period of interpellations – his idea of "liberal education" is the development of the critical and creative faculties of man so as to be of service to society. Then, we retained the phrase "vocational efficiency" because it has acquired a settled usage. This was the same provision in our 1973 Constitution. So the last line would read: "promote scientific, technological and VOCATIONAL efficiency."

MR. NOLLEDO. Madam President, will the Gentleman yield to some questions?

MR. SARMIENTO. Gladly, Madam President.

MR. NOLLEDO. What does the phrase "scientific, technological" describe? I ask because I do not believe there is some euphony here if we use "scientific, technological and VOCATIONAL efficiency." It is my first time to hear such an expression: "scientific efficiency" or "technological efficiency."

MR. SARMIENTO. These words were used in the 1973 Constitution and if I am not mistaken, these are all the same words used in the 1935 Constitution.

MR. NOLLEDO. I do not believe so, Madam President.

MR. RAMA. Madam President, may we ask what is the position of the committee before we go into a debate on the amendment presented by Commissioner Sarmiento?

MS. ROSARIO BRAID. We do not accept the amendment, Madam President.

MR. VILLACORTA. Madam President, the committee is divided actually. Three members are willing to accept and three are not, so we are equally divided.

MR. GASCON. Madam President, I would suggest, since the Commissioner's amendment is an amendment by deletion, that if possible, we accept some deletions. It may be best that the amendment be taken from that perspective – that we could move for a deletion of the first phrase which the Commissioner wishes to delete. We shall thereafter respond, and then the others will follow so we can explain why we feel others could be accepted while others could not.

MR. RAMA. Madam President, under our Rules, we have two speakers for the amendment. Is the Commissioner speaking for or against the amendment?

MR. NOLLEDO. Madam President, I am just interpellating for purposes of introducing a possible amendment, if it is amenable to Commissioner Sarmiento because this is my first time to hear an expression "scientific efficiency" or "technological efficiency." Something is wrong with this statement, Madam President.

THE PRESIDENT. Should this matter not be directed to the committee?

MR. NOLLEDO. I am presenting an amendment to the amendment, Madam President. If Commissioner Sarmiento is amenable, I would like to amend the last line to read: "promote scientific and technological EDUCATION AS WELL AS VOCATIONAL efficiency," because there is a defect in the proposal. The fact that the phrase is found in a previous Constitution should not necessarily preclude us from correcting such a glaring defect.

MR. SARMIENTO. May I hear Commissioner Nolledo's amendment again.

MR. NOLLEDO. It would read: "promote scientific and technological EDUCATION AS WELL AS VOCATIONAL efficiency."

MR. SARMIENTO. What about "scientific and technological EXPERTISE"?

MR. NOLLEDO. "Scientific efficiency" is all right.

MR. SARMIENTO. We accept the Commissioner's amendment, Madam President.

MR. NOLLEDO. Madam President, "scientific" indicates expertise, so with "technological." It will be a redundant expression if we use "expertise." I am also introducing this amendment to the amendment to guide the committee, because I am very sure there is a grammatical defect. We do not say "scientific efficiency" or "technological efficiency." There is no euphony.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Madam President, may we suggest that after the word "thinking," we put a comma (,) and "VOCATIONAL EFFICIENCY" and then continue with the words "AND promote scientific and technological EDUCATION."

MR. NOLLEDO. I am not amenable to that, Madam President.

MR. SUAREZ. Thank you.

MR. VILLACORTA. Just for the record, Madam President, the 1973 Constitution uses exactly the same wording: "scientific, technological and VOCATIONAL efficiency." The 1971 Constitutional Convention used that phrase.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

SUSPENSION OF SESSION

MR. SARMIENTO. To abbreviate the proceedings, may I request that we suspend the session for about two minutes so that we can confer with the committee.

THE PRESIDENT. The session is suspended.

It was 10:10 a.m.

RESUMPTION OF SESSION

At 10:17 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. SARMIENTO. Madam President, we have formulated the proposed amendment. May we ask the committee for their reaction to this proposed amendment? Is the clause "THEY SHOULD inculcate PATRIOTISM AND nationalism" accepted by the committee?

MR. VILLACORTA. The reformulation, Madam President, is "THEY SHALL inculcate . . ."

MR. SARMIENTO. "THEY SHALL inculcate PATRIOTISM AND nationalism." We accepted the Davide amendment.

MR. VILLACORTA. That is in the amended formulation of the committee, copies of which have been distributed to all.

MR. SARMIENTO. May I proceed to another line: "FOSTER love of HUMANITY." Is this accepted, Madam President?

MR. VILLACORTA. This is also the committee formulation.

MR. SARMIENTO. How about "respect for human rights, APPRECIATION OF THE ROLE OF NATIONAL HEROES IN THE HISTORICAL DEVELOPMENT OF THE COUNTRY and teach the rights and duties of citizenship"?

MR. VILLACORTA. That is in our formulation, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. May we first allow Commissioner Sarmiento to finish.

MR. VILLACORTA. Point of order, Madam President. What Commissioner Sarmiento is giving us are the committee formulations, so I think we are just repeating ourselves.

MR. GASCON. Madam President, is it the Commissioner's intent to delete "teach the rights and duties of citizenship"?

MR. SARMIENTO. No, we accepted the committee proposal to incorporate "teach the rights and duties of citizenship," but we asked for the deletion of the words "instill political, health and ecological consciousness and service to society," and "develop moral character and personal discipline."

MR. GASCON. Madam President, may we discuss, therefore, this motion of the Commissioner to delete "instill political, health and ecological consciousness and service to society" since this is his first motion?

MR. SARMIENTO. Yes, to delete the words "instill political, health and ecological consciousness and service to society." Our position is that it is covered by the words "PATRIOTISM AND nationalism, love of HUMANITY, respect for human rights, teach the rights and duties of citizenship."

THE PRESIDENT. The Chair understands that the committee is divided on Commissioner Sarmiento's formulation. Could the Commissioner just submit his formulation to a vote?

MR. SARMIENTO. Yes, Madam President, I will do it.

THE PRESIDENT. So let us now have the reworded section.

MR. SARMIENTO. The entire section will read: "THEY SHALL inculcate PATRIOTISM AND nationalism, FOSTER love of HUMANITY, respect for human rights, APPRECIATION OF THE ROLE OF NATIONAL HEROES IN THE HISTORICAL DEVELOPMENT OF THE COUNTRY, teach the rights and duties of citizenship, strengthen ethical and spiritual values, encourage critical and creative thinking AND BROADEN scientific AND technological KNOWLEDGE AND PROMOTE VOCATIONAL efficiency." This is being sponsored by Commissioners Romulo, Maambong, Lerum, Monsod, Suarez, Bacani, Rigos, Villacorta, Uka, Davide, Nolledo and this Representation.

MR. VILLACORTA. For the record, Madam President, I did not know my name was included there. It should not be because I represent the committee.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Madam President, since Commissioner Sarmiento wishes to delete "political, health and ecological consciousness," may I just state why we included the concept of political consciousness which is intended to be political literacy. We believe political consciousness is very important because in the past while literacy was emphasized, we did not try to skew it towards political awareness and political literacy.

We do remember that when Guinea-Bissau wrote its Constitution, its main theme focused on political literacy since it felt that a developing country should, first of all, promote political consciousness.

We have been talking about concepts of *conciencitacion preire* approach of political consciousness and critical thinking. These are all the ingredients of political consciousness.

So I submit, Madam President, that this concept is very important.

THE PRESIDENT. The Chair would just clarify the comments of Commissioner Rosario Braid. What the committee objects to is the proposed deletion of the words "instill political, health and ecological consciousness and service to society" and "develop moral character and personal discipline."

MR. VILLACORTA. That is right, Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. May we vote on the concepts one by one? Let us take the words "instill political consciousness" first, followed by "health and ecological consciousness" and then "service to society," because the committee itself is divided on these.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Before we vote, may I explain why we insist on retaining "instill political, health and ecological consciousness and service to society"? Our understanding of Filipino culture is that ours is a high threshold culture. We are of the type of "tama na, sobra na" culture, in the sense that we have to wait for crisis to come to a head before we respond. And we feel that if at the very early stage of the educational system, political, health and ecological consciousness is already inculcated, we might just be able to avert the emergence of several crises to which the response might be too late. For instance, we always say that "health is wealth" but even among ourselves, we have to wait for us to contract a malignant disease before we go to the doctor for medical checkup. In terms of ecological consciousness, we have to wait for famine, drought and flash floods before we say something about forest conservation, management and all that.

We feel that we do not respect our resource base; no matter what the economic policies are, we can never advance because the resource base has already been so degraded. So, we feel that these are the important considerations in the Constitution.

MR. RAMA. Madam President, may I ask that we vote first on the first concept: "instill political, health and ecological consciousness" so we can move forward.

THE PRESIDENT. That is, whether or not to delete.

MR. GASCON. I think we could do it by deleting first "political consciousness and health consciousness," then "ecological consciousness."

MR. GUINGONA. One at a time.

THE PRESIDENT. I beg the Commissioner's pardon. What is the proposal of Commissioner Gascon?

MR. GASCON. Father Bernas is proposing that we take each theme one by one.

MS. ROSARIO BRAID. Madam President, as a member of the committee, I would like also to do it one by one because one concept may be more important than the other, rather than having the risk of deleting the entire phrase. I agree with Commissioner Bernas that we take it one by one.

MR. COLAYCO. Point of order, Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. The group of Commissioner Sarmiento has already stated its own amendment. Therefore, we should vote on that amendment. We cannot mix the bone of contention between the proposals of Mr. Sarmiento and that of the committee. We are going to have here a hodgepodged discussion.

MR. GASCON. But the proposed amendment of Commissioner Sarmiento is essentially a motion to delete. We feel that maybe it would be best to look at it from that perspective as motions for deletion.

MR. COLAYCO. But the amendment proposed by the Sarmiento group is complete and it does not include the controversial phrases that the Commissioner wants the body to discuss little by little. The proper procedure should be for the body to vote on the proposed amendment as proposed by the Sarmiento group.

MR. GASCON. But essentially, it is a motion for deletion. Remember, we have the working draft.

MR. COLAYCO. It is all right. However, what I am saying is that we have now a proposed amendment. The vote should be on whether it is acceptable to the body or not.

MR. RAMA. Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

MR. RAMA. This is only a motion.

THE PRESIDENT. Let us first hear from Commissioner Bernas on this particular point. Does Commissioner Bernas have something to say?

FR. BERNAS. I was asking the original proponent of the amendment if he is amenable to a divided vote. The original proponent of the amendment would like to have his amendment voted as an entire. In other words, it is an amendment by substitution, rather than an amendment by deletion.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Ours is an amendment by substitution of the entire section.

THE PRESIDENT. The Chair believes that the Commissioners have these two drafts before them: the draft of Commissioner Sarmiento which has also been somehow changed with certain words and also the committee proposal as amended. So, we will vote on the proposed amendment of Commissioner Sarmiento as read. Will Commissioner Sarmiento please read again his amendment.

MR. SARMIENTO. This is a group amendment by this Representation and several others. May I now read the amendment.

It reads as follows: "THEY SHALL inculcate PATRIOTISM AND nationalism, FOSTER love of HUMANITY, respect for human rights, APPRECIATION OF THE ROLE OF NATIONAL HEROES IN THE HISTORICAL DEVELOPMENT OF THE COUNTRY, teach the rights and duties of citizenship, strengthen ethical and spiritual values, encourage critical and creative thinking AND BROADEN scientific AND technological KNOWLEDGE AND PROMOTE VOCATIONAL efficiency."

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Will the proponent agree to restore the phrase "develop moral character and personal discipline"? This was in the amended committee proposal.

THE PRESIDENT. That was already explained by Commissioner Sarmiento. However, will Commissioner Sarmiento please answer?

MR. SARMIENTO. Madam President, we regret we cannot accept the proposed amendment of the Vice-President. The group has decided to retain the amendment we are proposing.

MR. PADILLA. Madam President, may I say a few words with regard to this amendment.

THE PRESIDENT. Commissioner Sarmiento stated something when he was proposing his proposed formulation. Will the Commissioner repeat why he proposed to delete the words "develop moral character and personal discipline"?

MR. SARMIENTO. Yes, Madam President. In the book written by the Honorable Jose P. Laurel, Sr., *Forces That Make A Nation Great,* especially in his article "The Value of Ethical Principles" he said that ethical and spiritual values cover moral character and personal discipline. So, we are suggesting to delete the phrase "develop moral character and personal discipline" and stick to the phrase "strengthen ethical and spiritual values."

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. The phrase "develop moral character and personal discipline" appears in Section 7, paragraph 4 of Article XV of the 1973 Constitution. It was in the original, as well as in amended drafts of the committee. Hence, there seems to be no reason why such an important phrase be deleted. Its deletion might imply that we are no longer interested in developing moral character and personal discipline. To me, this phrase is even more important than the phrase "patriotism and nationalism." It is even clearer than the phrase "ethical and spiritual values." I have no objection to this phrase "ethical and spiritual values," but definitely, to eliminate the phrase "develop moral character and personal discipline" would be a retrogression and it is not possible to say that that is already included in ethical values.

So I would ask if it is not acceptable to the proponent of the entire section, as amended, that we vote on whether to retain this very important clause that has consistently been appearing in our Constitution and even in the original and amended drafts of the committee.

MR. VILLACORTA. Madam President, the committee supports Commissioner Padilla because the reference to moral character and personal discipline, as he pointed out, was contained in the 1935 and 1973 Constitutions.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, I noticed that the committee has submitted a proposal, as amended. If we consider this proposal in relation to the Sarmiento, *et al,* proposal, there are only few clauses which are supposed to be deleted. I joined in Commissioner Sarmiento's proposal only insofar as the phrase "promote scientific and technological" is concerned and which I substituted with the following: "BROADEN scientific and technological KNOWLEDGE." Earlier, during the suspension of the session, I proposed to the Commissioner that we should retain the teaching of the rights and duties of citizenship and also the development of the moral character and personal discipline.

In view of these very few amendments, can we not make the committee proposal as the basis for the Sarmiento proposal, so we will vote only on the two concepts supposed to be deleted?

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, I think the proposed amendment of Commissioner Sarmiento is very clear, but I do not agree that it is a simple case of amendment by substitution. It is a combination of substitution and deletion. So for the sake of order and in fairness to everybody, let us take the substitutions one by one and also the deletions one by one, and then vote on them.

It seems to me that the clause "THEY SHALL inculcate PATRIOTISM and nationalism, FOSTER love of HUMANITY, respect for human rights" is a modification. That has been accepted. But the deleted phrase "instill political, health and ecological consciousness and service to society" is an amendment by itself. In fact, it can be divided further because I think some people might insist that we can delete "political, health and ecological consciousness" but retain "service to society." So in fairness to everyone, may I move that we first vote on the deletion of the phrase "instill political, health and ecological consciousness."

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Thank you, Madam President.

I support Commissioner Bernas' proposal to consider these concepts one by one. But before doing so, I would like to stress that the deletion of the words "health consciousness" would really jeopardize the goal that we would like to set in the promotion and prevention of diseases because it is very vital that our citizenry would have that kind of consciousness so that they would be able to contribute to the prevention of many diseases that still plague our country. The school performs such a very vital role in the development of health consciousness and the thrust of curriculum development would greatly be affected with this inclusion in the provisions of the educational aims of educational institutions. So I would really appeal to the body to retain the words "health consciousness," being an important objective in education.

MR. COLAYCO. Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. In effect, I think the suggestion of Commissioner Bernas is an amendment to the amendment proposed by Commissioner Sarmiento and his group. That is what it is. Unless it is accepted by Commissioner Sarmiento, the proposed amendment of Commissioner Sarmiento should first be voted upon.

FR. BERNAS. Madam President, may I ask that we vote on my proposal.

THE PRESIDENT. Please correct me if I am wrong. The motion is to vote on the deletion of certain words.

FR. BERNAS. My motion is that instead of us taking the Sarmiento amendment as one amendment and it being voted upon as one amendment, we take it in parts. We vote in parts.

THE PRESIDENT. The Sarmiento amendment? How can we vote on this in parts?

FR. BERNAS. No. My motion is to accept the procedure that I am offering: that we vote in parts.

THE PRESIDENT. That is right, to vote on the deletion of the phrase "instill political, health and ecological consciousness and service to society," since this is one of those deleted in the Sarmiento amendment.

MS. ROSARIO BRAID. Madam President, if I understand Commissioner Bernas' motion, we should vote on each of these concepts by parts: first, "political," then "health" and the last is "ecological."

THE PRESIDENT. Is this how we interpret Commissioner Bernas' motion?

FR. BERNAS. Yes, that would be my preference because there are really so many concepts here and, whereas some people may be willing to die for some, they may not be willing to die for others.

MR. RODRIGO. Madam President.

THE PRESIDENT. All right. As the Chair sees it with the two drafts before me now, there is a similarity or unanimity between the committee report and the Sarmiento report up to the words "APPRECIATION OF THE ROLE OF NATIONAL HEROES IN OUR NATIONAL DEVELOPMENT."

FR. BERNAS. Yes.

THE PRESIDENT. The phrases "strengthen ethical and spiritual values" and "encourage critical and creative thinking" are all there.

FR. BERNAS. Yes.

THE PRESIDENT. Since these things are accepted or jointly sponsored by the committee, what we have to vote on now is whether or not the body is in favor of deleting the phrase "instill political, health and ecological consciousness and service to society." I understand that the committee desires to have the entire phrase voted upon. Or would the committee want to divide it into "political," and then "health," and "ecological"? What is the decision of the committee?

MS. ROSARIO BRAID. I think we would like to have it one by one.

MR. RODRIGO. Parliamentary inquiry, Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. The parliamentary situation is such that we have this Sarmiento, Romulo, Maambong and Lerum amendment which incorporates most of the items in the committee proposal. If anything has been omitted, the proper procedure is to introduce that as an amendment to the amendment; thereafter, we can vote on said amendment to the amendment.

THE PRESIDENT. That is not in accordance with the motion of Commissioner Bernas before the body and which has to be resolved now.

FR. BERNAS. Madam President, in effect what I am saying is what Commissioner Rodrigo is also saying — that the motion to delete "instill political, health and ecological consciousness" is an amendment to the amendment.

THE PRESIDENT. That is why the Chair rules that we have to vote on whether or not we have to delete it. Because then, if the body votes in favor of the deletion, as far as that is concerned, the Sarmiento proposal stands without the phrase "instill political." Then the committee requests that the word "political" be voted on separately from "health" and "ecological."

MR. PADILLA. Madam President.

VOTING

MR. RAMA. The body is ready to vote, Madam President.

THE PRESIDENT. As many as are in favor of the proposal to delete the phrase "instill political," please raise their *hand. (Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 23 votes in favor and 8 against; the motion to delete is approved.

The Sarmiento amendment also proposes the deletion of the word "health." As many as are in favor of the deletion of the word "health" from the committee report, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 17 votes in favor and 15 against; the motion to delete the word "health" is approved.

We shall now vote on the deletion of "ecological consciousness" which is not contained in the proposed Sarmiento amendment.

As many as are in favor of the proposal to delete the words "ecological consciousness" from the committee report, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 23 votes in favor and 12 against; the proposal to delete "ecological consciousness" is approved.

MR. GASCON. Madam President, before we vote on whether or not to delete the phrase "service to society," no one has yet spoken why we wish to retain said phrase. May I be given one minute.

THE PRESIDENT. Please proceed.

MR. GASCON. Madam President, I believe that we should retain "service to society" because we seek to encourage a new attitude towards education. At present, our educational system encourages what we call education for leadership and education for followership – certain individuals are taught to become leaders, while certain individuals are taught to become followers; secondly, our education encourages what we call the "success motive" which speaks of the rat race going up the ladder. It does not really encourage service; it is really education for ambition. So, when we want to include the phrase "service to society," we should look at education not only from the point of privileges that it provides the people, but also of the responsibilities that it has. So when we say "service to society," we would like to encourage the students who undertake education to commit themselves in the long run, in whatever manner they feel, to serve – not only to be ambitious, not only to go up the ladder to join the rat race but really to serve – those who are poor, deprived and oppressed. That is why we feel that we should retain the phrase "encouragement of education for service to society."

Thank you.

VOTING

THE PRESIDENT. We have heard Commissioner Gascon.

As many as are in favor of deleting the words "service to society" from this particular section, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 18 votes in favor and 17 against; the motion to delete "service to society" is approved.

There is another matter that has been brought up by Commissioner Padilla – the proposed Sarmiento amendment to delete the words "develop moral character and personal discipline" for reasons explained by him.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. May I join Commissioner Padilla in appealing to Commissioner Sarmiento – and I did also add my name there originally – to retain the phrase that we wrote in our 1973 Constitution which obviously has met appreciation and acceptance by our community: "develop moral character and personal discipline."

MR. SARMIENTO. Madam President, we are accepting the amendment to the amendment.

THE PRESIDENT. So we can vote now on the proposed amendment of Commissioner Sarmiento as a whole.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. I think there is a change of wording in the Sarmiento amendment from the word "scientific" and onward. It is different from the committee proposal.

MR. VILLACORTA. The committee has accepted the Sarmiento amendment concerning the last phrase.

MR. SARMIENTO. As suggested by Commissioner Davide, may I read the whole thing, Madam President, before voting on it?

THE PRESIDENT. Please proceed.

MR. SARMIENTO. "THEY SHALL INCULCATE PATRIOTISM AND NATIONALISM, FOSTER LOVE OF HUMANITY, RESPECT FOR HUMAN RIGHTS, APPRECIATION OF THE ROLE OF NATIONAL HEROES IN THE HISTORICAL DEVELOPMENT OF THE COUNTRY, TEACH THE RIGHTS AND DUTIES OF CITIZENSHIP, STRENGTHEN ETHICAL AND SPIRITUAL VALUES, DEVELOP MORAL CHARACTER AND PERSONAL DISCIPLINE, ENCOURAGE CRITICAL AND CREATIVE THINKING, BROADEN SCIENTIFIC AND TECHNOLOGICAL KNOWLEDGE, AND PROMOTE VOCATIONAL EFFICIENCY."

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Just for clarification, Madam President. When we say "scientific and technological knowledge," that includes scientific attitudes and scientific skills. Is that right?

MR. SARMIENTO. Yes.

MR. VILLACORTA. Thank you.

MS. QUESADA. Madam President, just for the record. Would the term "scientific knowledge" include knowledge about health?

MR. SARMIENTO. Yes.

MS. QUESADA. And would the "duties of citizenship" include service to the country, as well as the responsibility to take care of their own health and that of the community?

MR. SARMIENTO. Yes.

MS. QUESADA. Thank you.

VOTING

THE PRESIDENT. As many as are in favor of the Sarmiento amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 37 votes in favor and 1 against; the Sarmiento amendment is approved.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Just for my peace of mind, may I ask Commissioner Sarmiento why he proposed the deletion of the phrase "to instill political health, ecological consciousness and service to society"?

MR. SARMIENTO. To me, the phrase is already covered by the words: "patriotism, nationalism, respect for human rights, and teach the rights and duties of citizenship."

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Now we are ready to move on to Section 3(c).

MR. BENNAGEN. Madam President, I thought that is also included in "scientific education." But is that a response to the interpellation by Commissioner Quesada?

MR. SARMIENTO. Accepted, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. On behalf of the committee, may I invite the attention of our honorable colleagues to the fact that the committee has agreed to delete in our proposal the words "in writing," appearing on line 12 of page 2 of our revised draft. The reason for this is that we concur with the observation made during our caucus a few days ago that the retention of the words "in writing" in this proviso might bring about some problems with regard to parents and guardians who cannot read or write or who are illiterate. By deleting the words "in writing," we would allow them to express their option in some other acceptable manner. Therefore, the provision which this committee is now respectfully submitting for consideration by the honorable Commissioners would read as follows: "At the option expressed by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools by teachers designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government."

Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. There is an anterior amendment to be presented by Commissioner Garcia, as an additional paragraph to Section 3(b).

May I ask that Commissioner Garcia be recognized.

THE PRESIDENT. Is there any proposed amendment to the first paragraph, as read?

MR. RAMA. There is no other amendment, Madam President.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Thank you, Madam President.

During the discussions on the Article on National Economy and Patrimony, I suggested a paragraph regarding the teaching of economic nationalism. It was then suggested that it be transposed into the Article on Education. Therefore, I would like to propose my amendment during this particular time, in the following manner: "ECONOMIC NATIONALISM SHALL BE FOSTERED IN ALL SCHOOLS WITH THE VIEW TO INCREASING FILIPINO PARTICIPATION IN THE ECONOMIC DEVELOPMENT OF THE COUNTRY AND IN THE PROMOTION AND PATRONAGE OF LOCAL PRODUCTS AND SERVICES."

MR. RAMA. May we know the position of the committee?

THE PRESIDENT. Should this belong to the paragraph on religious instruction?

MR. GARCIA. No, Madam President. My suggestion is that, it be placed right after the paragraph we have just approved.

THE PRESIDENT. Will it be a separate section?

MR. GARCIA. A separate section or a subsequent paragraph.

MR. VILLACORTA. In the discussion on the Article on National Economy and Patrimony, the committee committed itself to accepting that proposal or amendment of Commissioner Garcia.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

Can we proceed first to approve the religious instruction, if there are no further amendments, because this is the issue on the floor right now.

MR. GARCIA. Excuse me, Madam President. We have just approved Section 3(b). And my suggestion is for an added paragraph to this particular Section.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

Before we go into the period of amendment on Section 3(c), regarding religious instruction . . .

THE PRESIDENT. No, we are going back to Section 3(b), Commissioner Suarez. I am sorry. The Garcia amendment is an additional paragraph to Section 3(b).

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I request Commissioner Garcia to repeat the proposed amendment?

MR. GARCIA. Yes, Commissioner Monsod.

THE PRESIDENT. Do we have copies?

MR. GARCIA. I already passed copies during the debates on the national economy three days ago. Anyway, I will read the proposed amendment.

THE PRESIDENT. Please proceed.

MR. GARCIA. "ECONOMIC NATIONALISM SHALL BE FOSTERED IN ALL SCHOOLS WITH THE VIEW TO INCREASING FILIPINO PARTICIPATION IN THE ECONOMIC DEVELOPMENT OF THE COUNTRY AND IN THE PROMOTION AND PATRONAGE OF LOCAL PRODUCTS AND SERVICES."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. It seems to me that the second part of the amendment does not belong here because that is already covered by the Article on National Economy and Patrimony. We do have sections on effective control and participation of Filipinos, several of them, and we do have a section on preferential use and patronage of Philippine products, labor and materials.

May I ask Commissioner Garcia if he is willing to entertain an amendment to the amendment, which says: "SHALL FOSTER ECONOMIC NATIONALISM FOR THE DEVELOPMENT OF A SELF-RELIANT AND INDEPENDENT NATIONAL ECONOMY." This is the first sentence in the Article on National Economy and Patrimony. So, the proposal repeats this general idea.

MR. GARCIA. I accept the amendment, Madam President.

MR. MONSOD. Thank you.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. May I ask whether "ECONOMIC NATIONALISM" is not actually covered by "nationalism" on line 4 – "They shall foster nationalism." I would suppose that this already includes "ECONOMIC NATIONALISM," and, therefore, another paragraph on that is not necessary.

MR. GARCIA. I would like to answer that briefly.

THE PRESIDENT. Please proceed.

MR. GARCIA. First of all, during the debates on the Article on National Economy and Patrimony, we said that if there is going to be any kind of deepening of effective Filipino control, it is important to instill it in the consciousness of the young in the coming generation. And therefore although I believe it can be embraced by nationalism, still there is a need to underscore the importance of economic nationalism, of an economic foundation that is held effectively by Filipinos. I think it is very important to instill this idea in the young. Therefore, the proposal is to include a further paragraph to highlight the significance of this thrust in education.

REV. RIGOS. Madam President, if ever the Commission agrees to this proposal, the best place for that would be in the Article on the Declaration of Principles, rather than in this Section 3(b).

MR. GARCIA. Excuse me, I would like to answer that. The thrust here is for schools to foster this kind of thinking, and therefore, I believe that the best place is really in this section on values, thrust and directions of educational institutions.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I proposed an amendment to state it in a way consistent with the Article on National Economy and Patrimony, but the proposal of Commissioner Rigos partakes of a principle rather than education of the schools, because this would include consumer education. Maybe, this should really be considered in the Declaration of Principles, rather than as part of the curricula of the schools.

MR. GARCIA. But I understand from our previous discussions on education that we have broadened the idea of education to include formal, nonformal and different types of education that would include different sectors of society. And therefore this would have that broad scope, the comprehensive approach.

SUSPENSION OF SESSION

MR. MONSOD. Madam President, may we have a suspension of session.

THE PRESIDENT. The session is suspended.

It was 11:02 a.m.

RESUMPTION OF SESSION

At 11:13 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Garcia be recognized.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Madam President, I am afraid that we did not come to an agreement during the break, so I would like to reiterate the amendment I am proposing: "ECONOMIC NATIONALISM SHALL BE FOSTERED IN ALL SCHOOLS WITH THE VIEW TO PROMOTING AN INDEPENDENT AND SELF-RELIANT ECONOMY."

THE PRESIDENT. Is this accepted by the committee?

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I think Commissioners Aquino and Rigos are going to speak on the proposal; but in view of their opinions, I would like to withdraw my support of the amendment by reason of my amendment. So I would just yield to Commissioners Aquino and Rigos.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I am constrained to take exception to the position of Commissioner Garcia. This is one area wherein we do not sacrifice the substance for the sake of brevity.

The principle of economic nationalism has in fact been enshrined already in the Article on Education. In fact, in the umbrella provision which serves as almost like the crown jewel of the Article on Education, there is a provision which says that:

> The State shall give priority to education, science and technology, arts, culture and sports to foster patriotism and nationalism.

In contemporary political thought and political theory, nationalism essentially lies at the bedrock of economic nationalism. All throughout the debate and the deliberations on the concept of nationalism, we have been consistently citing the thoughts of Claro Mayo Recto, the thoughts of Jose W. Diokno, the thoughts of Constantino, which premised the concept of nationalism on the historical process of the evolution of economic nationalism first and foremost as its major pillar. Also in Section 3(b), we have incorporated the clause "They shall foster nationalism" before the phrase "the love of humanity." It is all over. In fact, in the Article on National Economy and Patrimony, we have been underscoring the value education on the Filipino-First Policy to a point of even ranking it. I think we have said sufficiently enough about this value.

THE PRESIDENT. Does Commissioner Garcia wish to reply?

MR. GARCIA. Yes, Madam President.

First of all, I would like to say this: Although it is true that economic nationalism is included in the concept of nationalism, as based on our own experience, especially for those of us who teach in our schools, we realize that when nationalism is discussed, very often it is the political and cultural nationalism which is understood.

In fact, what we have in many of our schools is a colonial mentality that anything that comes from abroad, anything that comes from outside is better. That was why we had in the original draft of this amendment a desire to inculcate the promotion and patronage of local products and services so that our young people will value the products of our own industries, the products of our own labor and effort.

I believe that we cannot emphasize enough the importance of economic nationalism, especially among the young. And this is our experience in the schools – for those of us who teach – how difficult it is to tell the young people that what we produce is as good, if not better, and that we must put all our efforts together to produce a strong country, a better and stronger country.

I think this is important, especially in the formation of young minds.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. While I agree with the intent of Commissioner Garcia, I believe that this goal could better be achieved in early education and preschool where we instill qualities of discipline and craftsmanship. This way, we are able to train our people to become more quality conscious and, in the end, all turn out better products in the concept of cultural nationalism where we should be able to inculcate these values through the media and through the schools, rather than teaching this concept by itself. It is attained, in other words, through some rise in preschool education, in early education, and in the media education.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I did not intend to deprecate the value of economic nationalism as a historical imperative. In fact, time and again, I have spoken in this Chamber about it. But I have always believed that economic nationalism in the formation of the minds of the people and the children is essentially the thrust of value education, the burden of which lies essentially in the family as correctly stated by Commissioner Rosario Braid, essentially in the preschool value formation. Of course, the school will play a very decisive role, but we are not wanting – we are not wanting in constitutional mandate to give enough space for economic nationalism to be incorporated in the school curricula.

VOTING

MR. RAMA. Madam President, the situation calls for a vote, unless Commissioner Garcia withdraws his amendment.

THE PRESIDENT. As many as are in favor of the proposed amendment of Commissioner Garcia as an addition to Section 3(b), please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 11 votes in favor and 22 against; the amendment is lost.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Tingson be recognized to present an amendment to Section 3(c).

REV. RIGOS. Before that, we agreed that I could speak first.

MR. RAMA. Madam President, there was an agreement that Commissioner Rigos would speak on that amendment.

REV. RIGOS. Madam President, the committee announced that they have agreed to the proposal to delete the words "in writing" on line 12. I rise to suggest that the words "in writing" be retained so that it will read: "At the option expressed in writing by the parents or guardians, et cetera."

We used these words in the 1973 Constitution and I find no compelling reason why we should delete these words this time. It is argued that the illiterates, those who cannot read and write, cannot possibly express their option in writing, but I suppose that is the exception rather than the rule. There must be some way by which those who cannot read and write can express their option to have religion taught to their children in the public schools. And so, I suggest that we restore the words "in writing" in this particular paragraph.

MR. DAVIDE. Point of order, Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I would like to raise a point of order because there is no proposal presented yet to have it deleted. I have a proposal to delete the same.

THE PRESIDENT. No, it was read. Commissioner Guingona read the revised formulation.

MR. DAVIDE. The Commission was not informed about any change, Madam President. The copy that I have, and which was distributed by the committee, still retains "expressed in writing by."

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Earlier in the morning, Commissioner Guingona, on behalf of the committee, made a manifestation.

MR. DAVIDE. Then, may we request that it should be taken up first and that the committee introduce it as an amendment.

THE PRESIDENT. The committee is submitting a new formulation of Section 3(c).

MR. DAVIDE. I have not received a copy of that reformulated Section 3.

THE PRESIDENT. Will the committee read the proposal.

MR. VILLACORTA. Madam President, as manifested by Commissioner Guingona, the new proposed paragraph will read as follows: "At the option expressed by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools by teachers designated or approved by the religious authorities of the religion to which the children or wards belong without additional cost to the government."

MR. DAVIDE. So, if that is the proposal, I would propose an amendment to that by also deleting the word "expressed," so that the first sentence will only read: "At the option of parents or guardians, religion shall be allowed to be taught . . ."

MR. VILLACORTA. This is accepted by the committee.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, Commissioner Rigos moved for the retention of the words that were deleted by the committee. May I speak in support of the committee's stand.

First, let me read the Department Order of the Secretary of Education way back in 1953. Secretary Gregorio Hernandez at that time said that the basic policy of this administration – with regard to the implementation of the constitutional provision on optional religious instruction – is to give this permission the fullest effectivity. The basic philosophy for this has been stated by the Secretary of Justice in his Opinion No. 157, Series of 1953, where he said:

> Optional religious instruction was decreed as a constitutional mandate, not so much for the benefit or support of any particular sect or system of religion as for the development and upbuilding of the spiritual standard and moral values of the public school pupils, with the end in view of producing straight-thinking, morally upright and God-fearing citizens of the nation.

In Article II, Section 4 of the 1973 Constitution, we read these words:

> The State shall strengthen the family as a basic social institution. The natural right and duties of parents in the rearing of the youth in civic efficiency and the development of moral character shall receive the aid and support of the Government.

And then, in Article XV of the Child and Welfare Code:

> The promotion of the child's spiritual well-being, according to the precepts of his religion as much as possible, shall be encouraged by the State.

Why do I read all of these? Because they have one thrust and the thrust is really to facilitate the optional religious instruction when it is so desired by the parents. And that is why we should also facilitate that.

The essential thing is to safeguard religious freedom so that there will be no religious bigotry manifested and exercised. And I think that when the option is expressed by the parents, one way or the other, that should be sufficient. There is more than one way; writing is not the only way.

And as has been admitted by the proponent, there are people really – even though perhaps they may only be a few . . . even though the atheists may be few – whose welfare we took into consideration in the withdrawal of my amendment yesterday. So, also in this case, let us not say that there are not too many illiterates. I suspect that there are more illiterates in the Philippines than there are atheists.

Thank you.

THE PRESIDENT. As the Chair sees it, there is no particular objection to the optional religious instruction. All that is before the body is whether this should be the option of the parents and whose option should be expressed in writing or through some other means.

BISHOP BACANI. Yes.

THE PRESIDENT. We have the committee report as read by Commissioner Guingona and the chairman and the proposed amendment of Commissioner Rodrigo to the committee report by inserting the words "expressed in writing."

REV. RIGOS. It is the Rigos amendment, Madam President.

THE PRESIDENT. Yes. So that is what we will vote upon now, whether or not we are in favor of the Rigos amendment to the committee report.

BISHOP BACANI. Yes.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Before the committee report is submitted to a vote, I would like to propose an amendment. Delete the words "expressed by" and in lieu thereof, use the word "OF." So, it would read "At the option OF parents and guardians."

MR. VILLACORTA. Madam President, that was accepted by the committee.

SR. TAN. Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. May we know why our committee made a change? Before it was in writing, but now it has been deleted. Can they give us the reasons for this change?

MR. GUINGONA. As our chairman, the honorable Villacorta mentioned – and as cited by Commissioner Bacani – we had in mind the parents or guardians who cannot read or write.

REV. RIGOS. Madam President, may I just advance the information that in the last formal committee meeting, it was agreed that we should retain the words "in writing," this is why the copies distributed to us contain the words "in writing."

THE PRESIDENT. The Chair understands that there have been several amendments proposed to the committee which they considered during their caucuses, and this is the result of the consideration of those amendments.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Just for the information of the body, I would like to state that in the 1973 Constitution, the words "in writing" appear – "at the option expressed in writing by parents or guardians . . ." – but in the 1935 Constitution, the words "in writing" do not appear. The 1935 Constitution says, "optional religious instructions shall be maintained in the public schools as now authorized by law."

VOTING

THE PRESIDENT. All right, we are ready to vote. As many as are in favor of the proposed Rigos amendment to the committee report – to insert or to retain the words "in writing" – please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Five Members raised their hand.)*

The results show 20 votes in favor, 13 against and 5 abstentions; the amendment of Commissioner Rigos is approved.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Are there any other amendments?

MR. DE LOS REYES. Madam President.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you.

Before we vote on this, I would like to direct a very important clarificatory question to the committee. Do I understand it right that these "children or wards" are under parental authority and that they are minors?

MR. VILLACORTA. Yes.

MR. NOLLEDO. My second question is: When we talk of the word "guardians," do we mean natural guardians or guardians appointed by the court or does it mean anyone who is in actual custody of the minor?

MR. VILLACORTA. Both, Madam President.

MR. NOLLEDO. Thank you.

MS. AQUINO. Madam President.

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. May I request for one clarification before my amendment. The committee incorporated the phrase "by teachers designated or approved by the religious authorities of the religion. . ." This might entail some questions that may be very disturbing to some of us. For example, should the public school teachers be allowed to teach religion? I mean, may they come from the same school and teach the regular subject, like mathematics or science as others who usually teach the regular curriculum in the public schools?

MR. GASCON. No, Madam President. What we mean by this is that the religion to be taught will be that designated by the religious authorities of that religion, so they are not public school teachers. The contemplation of the committee is that no public school teachers will have the additional load or burden of teaching religion.

MS. AQUINO. The incorporation of this phrase without that particular qualification may be dangerous.

MR. GASCON. Why is that so?

MS. AQUINO. Because the only provision is that the teachers designated or approved by religious authorities may come from among the teachers of the public schools who teach the regular school curriculum. Some were objecting that teachers teaching the same regular classes in the school curriculum when they teach religion may carry a certain measure of moral ascendancy and moral suasion that will affect the impressionable minds of the children. These are the subtleties of indoctrination and formation that may not be intended.

MR. GASCON. That is right. Commissioner Aquino's point is that public school teachers who teach other subjects may also be allowed to teach religion. As I said, the contemplation of this committee is that the religion which may be taught at the option expressed by the parents shall be taught by teachers designated by the religious authorities and who are not members of the faculty or regular members of the faculty.

MS. AQUINO. Yes, who are not the regular school teachers of the faculty.

MR. GASCON. The regular school teachers of the faculty have already enough load on their shoulders and the teaching of religion would be an additional load.

MS. AQUINO. That is not so much really the consideration.

MR. GASCON. Yes, that is one. I also see the Commissioner's point.

MR. BENGZON. Madam President, for a clarification.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Further to the clarification sought for by Commissioner Aquino, I would like to address this question to the committee. Suppose there is a public school teacher who teaches in a school other than the school where that religion is taught – for example, a public school teacher in Caloocan – can that public school teacher who lives in Caloocan be appointed by the religious authorities to teach religion in a Quezon City public school, or would that teacher be totally disqualified simply because she is a public school teacher?

MR. VILLACORTA. I think the committee would think that that would be permissible, that a Caloocan teacher could teach catechism in a Quezon City public school.

MR. BENGZON. So what is really prohibited is the teaching of religion by a public school teacher who teaches any subject in that particular school because of the undesirable moral persuasion that she could bring to bear upon the people.

MR. VILLACORTA. That is right. In response to the point raised by Commissioner Aquino, the committee would welcome any amendment that would make our intention clearer.

MR. BENGZON. Do we still need to amend considering that the explanation and the intendment of the committee is very clear? We can just put the intention in the record and there is no vagueness.

MR. GASCON. Yes, that would depend on Commissioner Aquino's proposal.

MR. BENGZON. I was going to ask Commissioner Aquino if we should be satisfied with that explanation because the intendment of the committee is very clear. So let us not clutter the provision.

MS. AQUINO. Another clarification, Madam President. Should the instruction be given school credit?

MR. VILLACORTA. No, this is a noncredit subject, Madam President.

MS. AQUINO. What of the students who do not want to undergo religious instruction?

MR. VILLACORTA. This is purely optional.

MS. AQUINO. Optional without school credit?

MR. VILLACORTA. Yes, without school credit.

MS. AQUINO. I thank the Commissioner very much.

MR. RAMA. Madam President, Commissioner Tingson would like to present a concrete amendment to Section 2.

MR. VILLEGAS. Madam President.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. I would like to react to Commissioner Aquino's comments, Madam President. I think a lot of these details are really matters for legislation and I know it may be late at this time. However, I would highly recommend to the committee that after "high schools" we just say "AS MAY BE PROVIDED BY LAW," deleting the last phrase "without additional cost to the government." I would like to give flexibility to our future government to follow the examples of countries like Singapore, Indonesia and even Great Britain, which do not hesitate to use public funds for the teaching of all types of religion in the public schools. I think we are really very much getting involved in legislative matters. So I would like to suggest that after "high schools," we add "AS MAY BE PROVIDED BY LAW" because all the intricacies of who can teach, whether a teacher from another public school or an outsider, should not be constitutionalized. We should give tremendous flexibility to our government in the future to adapt to changing circumstances.

As I said yesterday, in Singapore which is headed by an agnostic, public funds are used in the teaching of religion in specific public schools. So my specific amendment is, after "high schools," delete all the words and add "AS MAY BE PROVIDED BY LAW."

MR. TINGSON. Madam President.

MR. VILLACORTA. Madam President, the committee does not accept the amendment but would like the body to decide on the issue.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Madam President, I was called upon by the Floor Leader to present my amendment a while ago and I was scheduled to present that when Commissioner Villegas asked for the floor. I just want to make it clear, Madam President, that the amendment I will propose – I was requested to do so by several Commissioners, including Commissioners Bacani, Rigos, Davide, Maambong, Monsod, Rama and Bernas – is with the understanding that the phrase "without additional cost to the government" should be retained. I am in a quandary because I cannot propose this amendment if the body will approve the proposal of Commissioner Villegas.

THE PRESIDENT. We have to vote first on the proposed amendment of Commissioner Villegas which is on the floor.

MR. TINGSON. Madam President, if so, then I would like to say a few words against the proposal.

THE PRESIDENT. The Commissioner will please proceed. The amendment of Commissioner Villegas is now open for discussion.

MR. TINGSON. Probably, if I would be allowed to present my amendment, Commissioner Villegas will desist from insisting on his amendment by deletion. May I do so, Madam President.

THE PRESIDENT. The Commissioner will please proceed.

MR. TINGSON. The amendment would be on page 2, line 15. Between "schools" and "by," insert "WITHIN THE AVAILABLE REGULAR SCHOOL HOURS," so the lines would read: "At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools WITHIN THE AVAILABLE REGULAR SCHOOL HOURS by teachers . . ." That would be the amendment joined by an ecumenical group, including Commissioners Bacani, Bernas, Maambong, Monsod, Rama, Davide and Rigos.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I just make it clear that when I agreed to the amendment, it was "WITHIN THE AVAILABLE REGULAR CLASS HOURS." It was not "WITHIN THE AVAILABLE REGULAR SCHOOL HOURS."

MR. TINGSON. I stand corrected, Madam President. The amendment is "WITHIN THE AVAILABLE REGULAR SCHOOL HOURS."

BISHOP BACANI. As I said, when I associated myself with that, it was "WITHIN THE AVAILABLE REGULAR CLASS HOURS."

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Could the Commissioner give us two minutes to reconcile this?

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 11:44 a.m.

RESUMPTION OF SESSION

At 11:51 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, the proponents had a meeting of minds. Commissioner Villegas is withdrawing his amendment. So I ask that Commissioner Tingson be recognized.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Madam President, I understand from the committee that they are also divided about this, and that they would like to throw the question to the floor. The amendment, Madam President, on line 15 is to insert between "schools" and "by" the phrase "WITHIN THE REGULAR CLASS HOURS." This is on the understanding, as already agreed upon by Commissioner Villegas, that we retain the phrase "without additional cost to the government."

MR. OPLE. Madam President, may I ask a question.

THE PRESIDENT. Commissioner Ople will please proceed.

MR. OPLE. When we say "WITHIN THE REGULAR CLASS HOURS," is the intention to provide optional religious instruction within a framework of the compulsory class hours, so that the element of possible duress enters the picture at that moment when optional religious instruction is located within a framework of a compulsory period during which classes have to be held?

MR. TINGSON. Madam President, may I yield the floor to Commissioner Bacani to answer that question.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Maybe Commissioner Ople is not familiar with what is happening in the public elementary schools.

MR. OPLE. But the next question I would put to that, before Commissioner Bacani replies so that we can shorten the exchange of views, is: Within the framework of class hours which has a compulsory character for students and teachers, what would be the customary frequency within the school week of optional religious instruction?

BISHOP BACANI. First of all, the religious instruction does not take the place of the compulsory subjects. There is a staggered schedule of the religious instruction so that this instruction is carried out at a time when the students do not have to attend any compulsory subject. That is the first thing. There is already one directive from the Ministry of Education, and this dates back to 1955, where they allowed the schools a maximum of three 30-minute break periods within a week.

MR. OPLE. This is a maximum allowable law.

BISHOP BACANI. Yes, I believe that is still the practice of some schools.

MR. OPLE. There are five days during the week when classes are held within what they call "a compulsory frame or certainly nonoptional frame of prescribed class hours." Is Commissioner Bacani saying that according to prevailing policy and practice this is really equivalent to about three times a week consisting of religious instruction of a period of thirty minutes for three sessions during the five-day week?

BISHOP BACANI. Yes. There is at least one directive from the Ministry of Education to that effect setting that as a maximum.

MR. OPLE. What is the prevailing frequency versus the maximum allowable time for religious instruction?

BISHOP BACANI. In fact, the prevailing frequency, at least among Catholics at present, is once a week. We are not even able to use up the maximum three-times-a week period.

MR. OPLE. When Commissioner Bacani speaks of class hour when no compulsory subject is taught, does it pertain to the recess? Usually there is a thirty or a fifteen-minute recess in the morning.

BISHOP BACANI. I thank the Commissioner very much for that question. The purpose, precisely, of stating "WITHIN THE REGULAR CLASS HOURS" is to prevent the religious instruction to be given at unholy hours, like before class hours in the morning, during recess or mealtime in the afternoon or after class hours.

MR. OPLE. So religious instruction will most likely take place during the free hours of the students and teachers within the class hours for the day.

BISHOP BACANI. That is actually the case.

MR. OPLE. If that is correctly stated, then I think the element of duress is eliminated and at the same time the optional character of religious instruction under this section is left without the element of duress. But are we sure that these discretionary spaces during the class hours are to be utilized for religious instruction, that there will be no detriment to the integrity of the curriculum as a whole and that these will not detract from the quota of time allocated during compulsory class hours to the major subjects taught to the students in public elementary and high schools?

BISHOP BACANI. I would like to assure Honorable Ople that I personally phoned Minister Quisumbing and she told me that the schedule can be arranged.

MR. OPLE. Thank you very much, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Aquino be recognized to speak *en contra.*

MR. DE LOS REYES. Madam President, parliamentary inquiry. I thought I heard Commissioner Villegas introduce an amendment which up to this moment has not been withdrawn.

THE PRESIDENT. That has been withdrawn, Commissioner de los Reyes.

MR. DE LOS REYES. I did not hear the amendment withdrawn.

MR. VILLEGAS. I withdrew the amendment after agreeing that the addition of "WITHIN REGULAR CLASS HOURS" would solve the problem.

THE PRESIDENT. Are there any other questions?

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I am disturbed by the proposal to incorporate the phrase "WITHIN THE REGULAR CLASS HOURS." If it is true, as Bishop Bacani has said, that it is already being adopted and practised, why do we have to provide for that in the Constitution? This provision might dangerously tread into some settled practices and jurisprudence. It may also raise practical questions. For example, when we provide for religious instruction within regular school hours, it would, when operationalized, eventually amount to a blending of the secular institution with sectarian education.

In the case of *McCullum v. Champagne County,* without having to press to the extreme the view of the separation of Church and State, that kind of a practice of allowing religious instruction within the regular school hours has been stricken down as unconstitutional. I understand that the intent precisely in incorporating this is to avoid that kind of a legal complication. However, the most liberal interpretation of the separation of Church and State in the more recent case of *Surach v. Clauson* would allow only for the time release method of religious instruction, meaning religion is not taught during the regular school hours.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. One reason this amendment is being proposed is to avoid conflicts with administrators of public schools. Sometimes in practice, the possibility of having convenient hours for the teaching of religion depends upon the inclination of the administrators. So the administrators themselves are in disagreement as to just how this is to be interpreted – whether religion may be taught during or only outside class hours. So there is no uniformity of practice. The purpose of the amendment is to have uniformity of practice and also to save the administrators the agony of having to decide for themselves whether or not they are violating the separation of Church and State.

Second, the entire purpose of the whole section is, in fact, to provide for an exception to the rule on nonestablishment of religion, because if it were not necessary to make this exception for purposes of allowing religious instruction, then we could just drop this amendment. But, as a matter of fact, this is necessary because we are trying to introduce something here which is contrary to American practices.

MS. AQUINO. Madam President, just a brief rejoinder.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. This is only for purposes of discussion. I cannot agree that this is an exception. The principle of the separation of Church and State is very definitive and decisive on the rich tradition of disallowing the State from undertaking religious instruction, from financing any religious groups and from blending sectarian and secular institutions.

These are the rich traditions of this principle of the separation of Church and State, but it does not disallow optional religious instruction. The principle of separation of Church and State does not provide for government hostility against the Church. In other words, it is not essentially an exception. The question is in the mode or in the modality of optional religious instruction. And it has been recognized that the time release method is allowable.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President. With all the discussions on this section, the more I find wisdom in Section 8(8), Article XV of the 1973 Constitution, which states:

> At the option expressed in writing by the parents or guardians, and without cost to them and the government, religion shall be taught to their children or wards in public elementary and high schools as may be provided by law.

So I am amending Section 3(c) by putting in there the provision of Section 8(8), Article XV of the 1973 Constitution, which I have just read.

THE PRESIDENT. There is a proposed amendment by Commissioner de Castro. Is Commissioner Tingson accepting the proposed amendment of Commissioner de Castro so that we can proceed to a vote?

MR. TINGSON. Madam President, from my understanding, the amendment of the Commissioner is really an amendment by substitution. I would like to throw the matter to the floor for decision.

THE PRESIDENT. So we will put the proposed amendment of Commissioner Tingson, which has been agreed upon during the suspension by Commissioner Bacani and others, to a vote.

MR. DE CASTRO. May we hear the amendment of Commissioner Tingson, Madam President.

MR. TINGSON. Madam President, the amendment on Section 3(c), page 2, line 15, is to insert between "schools" and "by" the phrase "WITHIN THE REGULAR CLASS HOURS."

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Would Commissioner Tingson agree to an amendment to his amendment?

MR. TINGSON. Madam President, may we hear the amendment to the amendment.

MR. AZCUNA. Instead of "WITHIN THE REGULAR CLASS HOURS," substitute the phrase "DURING ANY CONVENIENT INTERVAL WITHIN THE REGULAR CLASS HOURS," so that the religious instruction can be inserted any time during regular class hours. But it will be considered as an interval and not a regular class hour for the students.

MR. TINGSON. Madam President, may I yield to Commissioner Bacani.

MR. BENGZON. May I ask one question of Commissioner Azcuna on his proposed amendment to the amendment.

MR. AZCUNA. Willingly, Madam President.

THE PRESIDENT. Commissioner Bengzon will please proceed.

MR. BENGZON. The problem, and which is one of the reasons why I believe this particular amendment is proposed, is that it has in some areas been the practice by the principal or the administrator to deliberately allow religious instruction at high noon when everybody goes home for lunch, which is so inconvenient for the students.

So would the Commissioner's amendment mean that the time for religious instruction could be placed at high noon?

MR. AZCUNA. No, Madam President.

MR. BENGZON. Because that is an interval within the class hours.

MR. AZCUNA. The word "CONVENIENT" would exclude such intervals, the intention being to carve a free time within the convenient regular hour.

MR. OPLE. Madam President, will the Gentleman consider an amendment to his amendment?

MR. AZCUNA. We will hear the amendment first, Madam President.

MR. OPLE. Will his intention be better served by using "FREE INTERVAL" in lieu of "CONVENIENT INTERVAL WITHIN THE REGULAR CLASS HOURS"?

MR. DAVIDE. Madam President, point of order.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. That amendment would be a third degree amendment proscribed by the Rules.

THE PRESIDENT. Commissioner Davide is correct.

MR. OPLE. It is not, therefore, an amendment, but a proposal put to the amending Commissioner.

MR. AZCUNA. Madam President, in view of the objection of the Honorable Davide, I have to decline the proposal, although I am agreeable to the idea. Maybe it can be raised as another amendment if my amendment is not accepted.

Is the Honorable Tingson agreeable to my proposal?

THE PRESIDENT. Is the Azcuna amendment acceptable to Commissioner Bacani?

BISHOP BACANI. I am sorry, we have to decline this because "CONVENIENT INTERVAL" is a very vague phrase.

THE PRESIDENT. Let us just proceed to a vote.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Before we proceed to vote, may I ask the Honorable Tingson whether or not my amendment by substitution using Section 8(8), Article XV of the 1973 Constitution which reads as follows is acceptable:

> At the option expressed in writing by the parents or guardians, and without cost to them and the government, religion shall be taught to their children or wards in public elementary and high schools as may be provided by law.

If the Honorable Tingson will accept this amendment by substitution, then I am putting it, Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Madam President, I look with favor upon the 1973 Constitution provision because I was the chairman of the Committee of Church and State of the 1971 Constitutional Convention, but with the understanding that naturally this body has a right to introduce amendments to anything we approve.

MR. RAMA. Madam President, the amendment of Commissioner Azcuna is on deck and we should vote on it now.

VOTING

THE PRESIDENT. As many as are in favor of the amendment proposed by Commissioners Tingson, Bacani and others to insert the words "WITHIN THE REGULAR CLASS HOURS," please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Three Members raised their hand.)*

The results show 20 votes in favor, 15 against and 3 abstentions; the proposed amendment of Commissioner Tingson and others is approved.

MR. RAMA. I ask, Madam President, that Commissioner Davide be recognized to introduce amendments on the same Section 2(c).

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. The proposed amendments would affect lines 15 to 17. The first will be to substitute the word "teachers" with the word "INSTRUCTORS," then delete the phrase "designated or approved by the religious authorities" on lines 15 and 16. On line 17, between the words "to" and "the," insert "THEM AND," so that lines 15 to 17 will read: "and high schools by INSTRUCTORS of the religion to which the children or wards belong, without additional cost to THEM AND the government."

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Will Commissioner Davide accept an amendment to line 17 by deleting the word "additional"? I feel, Madam President, that the word "additional" does not belong in the provision. If we say "additional," it means that there is an original cost.

MR. DAVIDE. I accept the amendment deleting the word "additional."

THE PRESIDENT. What does the committee say with respect to the Davide amendment?

MR. VILLACORTA. The committee accepts the Davide amendment, Madam President.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, I object to the use of the phrase "without cost to THEM" – that refers to the pupils – because they may voluntarily wish to pay or make offerings to their teachers in religion. So "without additional cost to the government" is just right. The amendment of Commissioner Davide says: "Without cost to THEM AND the government."

MR. DAVIDE. Yes, the reason being that if we put the word "additional" here, it would mean that the government may first be required to provide certain expenditures. That is why we have to delete "additional." And insofar as the wards, the pupils and the parents are concerned, they could voluntarily contribute. That is different. So the addition of "additional" here may mean that the government and the parents may be required to spend somehow for these religion teachers. It would become mandatory for the parents to do that. So the idea is that if the parents, guardians, wards or pupils voluntarily contribute a certain amount for the stipend of the religious instructor, that is not within the mandate of the Constitution.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. With respect to the word "additional," it seems to me that it is necessary because by allowing religious instruction in school facilities, some expense on the part of the government is already involved – the wear and tear of the building, the electricity used to light the classroom, et cetera. Those are costs to the government. In other words, "additional" means without any additional cost over and above the necessary normal operation of the school, after all, it is the school who pays the janitors to clean the classrooms. So there is some expense already involved on the part of the government by allowing this. But "additional" there means that the government will not, for instance, be required to pay the teachers or for the children's transportation and so forth. In that sense, there is a need for putting the word "additional" because there is an initial cost.

MR. DAVIDE. If the committee will adopt that particular interpretation of Commissioner Bernas, I will not insist on accepting the proposal of Commissioner Maambong to delete the word "additional."

FR. BERNAS. Madam President, on the matter of the addition of "THEM AND," it does seem to be unnecessary because at any rate, the State cannot impose that cost on the parents.

MR. DAVIDE. So the Commissioner wants to amend my amendment by deleting the words "THEM AND."

FR. BERNAS. Yes, because as I said the State cannot impose that cost on the parents anyway.

MR. DAVIDE. I agree, Madam President. So the only amendments will be the change of the word "teachers" to "INSTRUCTORS" and the deletion of the phrase "designated or approved by the religious authorities." I am substituting "teachers" with "INSTRUCTORS" because of some confusion, despite the interpretation of the committee, that the teachers themselves in the same educational unit may be allowed to teach. So to avoid that possible confusion, we change it to "INSTRUCTORS."

FR. BERNAS. Madam President, may I present this consideration to the Honorable Davide. Perhaps, retaining that phrase "designated or approved by the religious authorities" would facilitate things for the school administrator because they would know whom to allow to teach. Let us say five teachers come, all of them saying: "I am teaching for the Catholic Church." Who is to decide which one is representing the Catholic Church? So I think that is for the school administrator to decide.

MR. DAVIDE. With that plea, I am withdrawing the proposed amendments, except for the substitution of "teachers" with "INSTRUCTORS."

MR. JAMIR. Madam President.

THE PRESIDENT. Commissioner Jamir is recognized.

MR. JAMIR. With respect to the word "additional," I understand Commissioner Bernas stated that it refers to the initial cost to the government. Commissioner Davide stated that if that is the interpretation given to that word by the committee, he will withdraw his amendment; but I have not heard the committee respond to that question. So we would like to know from the committee whether the word "additional" in the provision refers merely to lighting or janitorial cost and not to any other cost.

MR. VILLACORTA. That is right; we agree with that interpretation.

MR. JAMIR. Is that the official interpretation of the committee?

MR. VILLACORTA. Yes, Madam President.

MR. JAMIR. I thank the Commissioner, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Just one point of clarification from Commissioner Bernas. He was saying that the phrase "designated or approved by the religious authorities" will solve the problem of the school. But it appears in this formulation that it is the religious authorities who will designate.

MS. ROSARIO BRAID. Yes, Madam President.

MR. MAAMBONG. Precisely, and Commissioner Bernas is talking about the decision on the part of the authorities of the school to decide or designate out of five the religious instructor. How will they solve the problem?

FR. BERNAS. Madam President, the situation is something like this: You are the principal. Five people come to you, all of them saying: "I am the representative of the Catholic Church and I am here to teach the Catholic children religion." Or, one of them says, "I am the one, the other four are not," and so forth. Somebody has to decide that, and we do not want to leave that decision to the school authority. We should protect the school authority as much as possible. So all the school authority has to ask is: "Which of you can present to me a letter from the parish priest designating you as the teacher?"

MR. MAAMBONG. The Commissioner is, therefore, contemplating of a situation where the church denomination making the designation is the one causing the confusion. I mean, instead of designating one, they present five representatives.

FR. BERNAS. Five present themselves.

MR. MAAMBONG. Of one denomination?

FR. BERNAS. Yes, all claiming to be representatives. But the school authority can accommodate only one because, let us say, there is only one class. So the school authority has to know who among the five representatives. And who is to decide that? I think that should be decided by the church authority.

MR. MAAMBONG. Thank you.

MR. RAMA. Madam President, I move that we approve the entire Section 3(c), as amended.

THE PRESIDENT. Will the chairman please read the entire section.

MR. VILLACORTA. Section 3(c) will read as follows: "At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools WITHIN THE REGULAR CLASS HOURS by INSTRUCTORS designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government."

VOTING

THE PRESIDENT. As many as are in favor of this section as read, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Three Members raised their hand.)*

The results show 33 votes in favor, 3 against and 3 abstentions; Section 3(c), as amended, is approved.

MR. OPLE. Madam President, before we proceed to the next section, may I be allowed to raise a parliamentary inquiry. This is addressed particularly to the Floor Leaders. I refer to the proponents, and I think I speak at this time on behalf of all the proponents of amendments for new sections appended to the resequenced outline for the committee, including the Bacani, et al amendment; Ople, et al amendment; Villegas, et al amendment; Davide amendment, and Padilla amendment. It is understood, Madam President,that we do not have to present these amendments right now so as not to interrupt the flow of the proceedings and reserve them for the last part of the consideration of this article, provided that the committee has the power to relocate them in the appropriate places.

THE PRESIDENT. I think I have to ask the chairman of the committee to answer that particular query.

MR. VILLACORTA. That was the intention of the committee, Madam President.

MR. OPLE. Thank you very much for the clarification.

THE PRESIDENT. May the Chair be informed whether or not we are resuming after lunch?

MR. VILLACORTA. Madam President, we consulted the Floor Leader and the Steering Committee chairman; most of the members of the committee, as well as some of our fellow Commissioners, have appointments this afternoon. It is with the understanding that every Saturday we adjourn at one o'clock in the afternoon.

So would it be possible if the Chair could adjourn the session at one o'clock?

THE PRESIDENT. All right, at one o'clock.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. People are willing to go all day, but the only problem is that there seems to have been an understanding in the past that we will only go until one o'clock on Saturday.

Can we have an understanding as to whether the body would be willing to go all day on the forthcoming Saturdays so that there will no longer be confusion in the future?

VOTING

THE PRESIDENT. Let us submit that to a vote.

As many as are in favor of continuing our deliberations until afternoon, instead of half day on Saturdays, please raise their hand. *(Few Members raised their hand.)*

As many as are against or, in other words, they are in favor of working just half day on Saturdays, please raise their hand. *(Several Members raised their hand.)*

The results show that there are 14 votes in favor of working until afternoon on Saturdays, 18 voted to rest after one o'clock, and nobody abstained. So we will maintain the half-day schedule which is up to one o'clock.

Let us now proceed to the next section, Section 4.

MR. RAMA. May I ask that Commissioner Regalado be recognized for his amendment on Section 4.

MR. REGALADO. Thank you, Madam President.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. May I rise on a point of parliamentary inquiry.

THE PRESIDENT. Commissioner Tingson may proceed.

MR. TINGSON. I would be very happy to give way to Commissioner Regalado, but actually I have an amendment which is an additional paragraph on Section (c). I shall be very glad to do it later on, if I am given the permission to do so.

MR. REGALADO. I am willing to yield to Commissioner Tingson, if his amendment – the proposed second paragraph – should come before Section 4. The Commissioner is telling me that he is not yet ready at the moment but he will just make a reservation to introduce a proposed amendment to constitute a second paragraph of Section 3.

My proposed amendment is on Section 4, but when this portion was being sponsored by the committee, unfortunately, I was in the hospital and, when I was going over the Journal, my doubts were not clarified. So, before I propose my amendment, may I be permitted to seek clarification? It may not be necessary for me to propose some additional amendments.

With respect to Section 4(a), may I ask the committee whether the provisions thereof are intended to be prospective in nature or should apply even to institutions organized by religious orders, mission boards and charitable organizations which are already existing.

MR. VILLACORTA. First of all, we are still discussing the first paragraph, not yet Section 4(a). But in answer to the Commissioner's question, this is meant to apply immediately after the ratification of this Constitution.

I understand that there are some Commissioners who would like a transitory period during which foreign-owned religious schools will have time to divest their holdings.

MR. REGALADO. In other words, the present educational institutions in the Philippines which are established and managed by religious orders will have to divest themselves of their holdings.

MR. VILLACORTA. Yes, although we are still allowing 25 percent equity. During the period of interpellations, Commissioner Davide requested the committee to come up with data on the number of foreign-owned religious schools we have. We found difficulty because the Ministry of Education, Culture and Sports, as well as the Securities and Exchange Commission, does not have the classified data on this.

Moreover, the Catholic Educational Association of the Philippines (CEAP) has just a directory with the names of the owners of the schools but not specifying the percentages of ownership. However, Commissioner Rigos, speaking on behalf of the Association of Christian Schools and Colleges (ACSC), which is the Protestant Association of Schools, confirmed that all Protestant missionary schools are now Filipinized.

Brother Rolando Dizon, who is the president of the Catholic Educational Association of the Philippines and Sister Luz Emmanuel, an officer of the same organization, have confirmed that all Catholic missionary schools are Filipinized.

MR. REGALADO. That is what bothers me. In my reading of the Journals, the comment of the committee is that these schools established by religious orders have already been Filipinized. Does the word "Filipinized" mean Filipinized in the administration or Filipinized in the ownership?

MR. VILLACORTA. In the ownership. What we could not find out is whether by the word "Filipinized," we mean 100 percent or 60:40. We have a feeling that it is 60:40. But the data are not available. We went to the Ministry of Education, Culture and Sports and to the SEC, but they could not help us.

MR. REGALADO. How about the matter of corporation sole which is practically the configuration of most of these religious schools? It is not a corporation in the regular form as understood in the Corporation Code, but the case of corporation sole which is the nature of schools operated by religious orders.

MR. VILLACORTA. By that, does the Commissioner mean that ownership is invested in the president or in the organization?

MR. REGALADO. Ownership belongs to the order.

MR. GUINGONA. To the religious order.

MR. REGALADO. To the order itself and it is only represented by trustees. How do we determine the 75 percent of that kind of a corporation sole? How about the provisions of Section 25 of P.D. No. 232, the Education Act of 1982, which provides that all future educational institutions shall be nonstock corporations? Aside from the fact that it is a corporation sole, how do we determine the citizenship of the owner of a corporation sole since a corporation sole does not have citizenship?

MR. VILLACORTA. Commissioner Guingona will answer that question.

MR. REGALADO. That is what I am interested in finding out because if I am satisfied with the answers, I do not have to propose amendments anymore. But as I said, I was in the hospital when these things took place and there was the term "Filipinization." This term "Filipinization" was contemplated under P.D. No. 176, implementing the 1973 Constitution, which contemplated both Filipinization in ownership and Filipinization in administration. That is not clear to me.

MR. GUINGONA. The members of the committee, in providing for ownership by individual citizens or by corporations or associations, have simply copied the provisions under Article 15, Section 8(7), which in our interpretation, would mean that we would only be considering ownership either by individuals or corporations, not corporation sole.

MR. REGALADO. Is the Commissioner referring to Section 8 of Article 15 of the 1973 Constitution?

MR. GUINGONA. Yes. If the Commissioner will notice, this particular provision limited its enumeration or its concern to citizens in the Philippines or corporations or associations, sixty *per centum* (60%) of the capital of which is owned by such citizens.

MR. REGALADO. The Commissioner failed to read the opening statement. Paragraph (7) of Section 8, Article 15 of the 1973 Constitution provides:

> Educational institutions, other than those established by religious orders, mission boards, and charitable organizations, shall be owned solely by citizens of the Philippines, or corporations or associations sixty per centum of the capital of which is owned by such citizens.

In other words, that requirement specifically excluded educational institutions established by religious orders, mission boards, and charitable organizations, and to further clarify that P.D. No. 176 of April 16, 1973, implementing the very same Section 8(7) of Article 15, even made a distinction about educational institutions already established and those to be established.

Thus, Section 1, of P.D. No. 176 provides:

> Ownership – All educational institutions other than those which are already established or which may hereafter be established by religious orders, mission boards and charitable organizations.

In other words, P.D. No. 176, implementing the aforequoted provisions of the 1973 Constitution specifically excepted from the coverage those educational institutions already established or in the future to be established by religious orders, mission boards and charitable organizations. And Section 2 referred to "Filipinization" in relation to control and administration which thereby implemented the second sentence of paragraph (7) of Section 8, which says:

> The control and administration of educational institutions shall be vested in citizens of the Philippines.

That is according to the 1973 Constitution. Implementing the same was Section 2 of P.D. No. 176 which says:

> The control and administration of all educational institutions already established hereafter to be established in the Philippines shall be vested in citizens of the Philippines.

That is why, when I read in the Journal about the committee stating that there is already "Filipinization," or that most of the schools have already been "Filipinized," my problem is whether the phrase "Filipinized" was used in relation to ownership or just to administration. Insofar as the administration is concerned, more or less with two or three exceptions, that is already a *fait accompli*, because under P.D. No. 176 we were given up to the school year 1976-1977 only within which to "Filipinize" those institutions from the standpoint of administration. Of course, there were two religious schools which held on to foreign administrators, but all the rest already replaced their rectors with Filipino religious members by the school year 1976-1977. That was Filipinization insofar as administration was concerned as mandated by the 1973 Constitution and as implemented by P.D. No. 176. But I am not sure as to what the committee was saying when it referred to Filipinization of these schools from the standpoint of ownership.

MR. GUINGONA. The committee refers to both ownership and administration. If I may be allowed to continue, may I refer the Commissioner to the same section that I have specified in the 1973 Constitution. The Commissioner will notice that this particular provision does not only refer to administration because it speaks also of educational institution which should be owned solely by citizens or corporations of the Philippines.

MR. REGALADO. Yes.

MR. GUINGONA. In other words, even in the 1973 Constitution, the contemplation or the intention of the fundamental law was to include both ownership and administration.

MR. REGALADO. They are not merely these, because otherwise there is an error of language in the Constitution then. Paragraph 7 of Section 8 states: "Educational institutions, other than those established by religious orders, mission boards, or charitable organizations."

MR. GUINGONA. Yes.

MR. REGALADO. In other words, with the exception of educational institutions established by religious orders, mission boards, or charitable organizations, then all educational institutions shall be owned solely by citizens of the Philippines and at the time, of course, by corporations or associations 60 *per centum* of the capital of which is owned by citizens. In other words, educational institutions of religious orders were exempted from that requirement by the very constitutional provision which was further implemented and ramified with clarity in P.D. No. 176.

I will also ask the committee whether the so-called Filipinization of these schools, from the standpoint of ownership, not from the standpoint of administration alone, has already been carried out, especially with respect to corporation sole like the Dominican Order and the Benedictine Order.

MR. GUINGONA. May I invite the Commissioner's attention to the fact that the proposal that we have here also contains exceptions. Those same exceptions were provided under Subsection 7 of Section 8, Article XV of the 1973 Constitution. However, we have provided in our proposal that there should be a 75:25 ratio, whereas before there was no such proportional ratio in the 1973 Constitution as far as ownership is concerned.

The Commissioner is talking about the presidential decree. He said that that presidential decree had been enacted to clarify. However, we find no reason why further legislative enactment is needed to make clarification on the subject of existing jurisprudence. The Commissioner was asking about Filipinization. Our chairman, Commissioner Villacorta, has already said that as far as Protestant schools are concerned, they are all Filipinized as testified to by Commissioner Rigos and by the association itself, the Association of Christian Schools and Colleges. Also, as far as the Catholic schools are concerned, they have also become Filipinized as manifested by the president of the Catholic Educational Association of the Philippines. The only question is whether the Filipinization is 100 percent as in the case of the Protestant schools, or whether the Filipinization is based on a 60:40 ratio as mentioned by Brother Dizon.

MR. REGALADO. Not only with respect to administration but also ownership?

MR. VILLACORTA. Yes.

MR. REGALADO. Does that include even corporation sole?

MR. GUINGONA. Yes, because even the 1973 Constitution does not speak of corporation sole.

MR. REGALADO. It speaks of corporations?

MR. GUINGONA. Yes.

MR. REGALADO. And when we speak of corporations, can we speak of corporation sole or corporation aggregate?

MR. GUINGONA. Yes, if we are going to include that, then the corporation sole will have to follow the provision of the Constitution.

MR. REGALADO. And how do we determine the capitalization of the corporation sole?

MR. GUINGONA. A corporation need not be a stock corporation; it can be a nonstock, nonprofit with members only.

MR. REGALADO. I asked so because the Commissioner has mentioned in his proposal the phrase "75% owned by Filipino citizens."

MR. GUINGONA. Yes.

MR. REGALADO. How do we establish the 75 percent when we talk of corporation sole?

MR. GUINGONA. When we talk of this matter, we are not talking only in terms of shareholders, but also in terms of membership. Thus, as far as the nonstock corporations are concerned, we do not talk only of percentage of shares, but also in terms of numbers of membership.

MR. REGALADO. Paragraph (a) of Section 4 states: "which shall be at least 75% owned by Filipino citizens."

MR. GUINGONA. Does the Commissioner mean 75 percent Filipino and 25 percent foreign?

MR. REGALADO. Madam President, in view of those clarifications which I find a little insufficient for my purpose, I am respectfully proposing an amendment to Section 4, paragraph (a), by actually making this a throwback to the provisions of the 1973 Constitution to the effect, and to read: "PRIVATE EDUCATIONAL INSTITUTIONS, OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION BOARDS AND CHARITABLE ORGANIZATIONS, SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS WHOLLY OWNED BY SUCH CITIZENS instead of the 60:40 arrangement under the 1973 Constitution."

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, I would support the amendment proposed by Commissioner Regalado. It is being repeated here over and over again that schools, religious schools, have been Filipinized. I cannot speak for the Protestant schools, but as far as the Catholic schools are concerned, I do not think that I would accept at face value the statement of the president of the Catholic Educational Association of the Philippines that, in fact, all Catholic schools are completely Filipino-owned. I do not think I will accept that at face value. As far as administration is concerned, it is easier. But how do we determine the ownership of a school? The ownership of a school can be in a corporation. How do we determine the citizenship of a corporation? By the citizenship of the members. Who owns the school? The members of the corporation. Who are the members of the corporation? Are they all Filipinos or are some of them non-Filipinos? I have a feeling that we will find some corporations owning schools some of the members of which are non-Filipinos. So I would not accept at face value the statement that all Catholic schools are 100 percent owned by Filipinos.

MR. VILLACORTA. Madam President, just a correction. The CEAP president did not say that the Catholic schools are all 100-percent-owned. He said that he was not sure whether ownership was 60:40 or 100 percent.

FR. BERNAS. All right. So I would still support the amendment of Commissioner Regalado exempting religious schools from the requirement of 100 percent ownership on this ground that precisely religious schools, whether Protestants or Catholics, are different from secular schools in which there is a religious element in them. The religious element in these schools transcends citizenship. For that fact, there seems to be very good reason for making this exemption. Hence, as far as administration is concerned, that is a more sensitive thing. But for ownership and in order to keep the quality of the religious instruction itself, quite apart from the secular aspects of the school, it may be necessary to have some partial foreign ownership in some institution in order to keep them going. So, for the protection of those religious schools which are not 100 percent Filipino-owned and which need the support of outside assistance in order to continue, I would propose that we keep the 1973 provision on this.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I submitted a proposal which is actually found on page 3 of my amended omnibus proposal, which seeks to strike at a compromise or a balance. It will read as follows: "Private educational institutions shall be SOLELY-OWNED by citizens of the Philippines, or corporations or associations wholly owned by such citizens. HOWEVER, UNTIL CONGRESS SHALL PROVIDE OTHERWISE, RELIGIOUS ORDERS, MISSION BOARDS OR CHARITABLE ORGANIZATIONS MAY OPERATE AND MAINTAIN EDUCATIONAL INSTITUTIONS PROVIDED THAT AT LEAST SIXTY *PER CENTUM* OF THE CAPITAL OF SUCH INSTITUTIONS IS WHOLLY OWNED BY CITIZENS OF THE PHILIPPINES.

THE CONTROL AND ADMINISTRATION OF PRIVATE EDUCATIONAL INSTITUTIONS SHALL BE EXCLUSIVELY VESTED IN CITIZENS OF THE PHILIPPINES."

The rest would be: "No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless OTHERWISE provided by law, for other FOREIGN temporary residents."

We have here a situation where, in the meantime or until Congress shall provide otherwise, educational institutions owned and operated by religious orders, mission boards or charitable institutions may continue on a 60:40 basis in favor of Filipino citizens.

MR. VILLACORTA. Madam President, may we inquire from Commissioner Davide? Since his proposal is almost identical to ours with the exception of the *per centum*, would he be amenable to increasing the 60 percent to 75 percent?

MR. DAVIDE. I would leave it to the body.

MR. VILLACORTA. But the principle is there. That we would want the majority of the stocks to be controlled by Filipinos.

MR. DAVIDE. Yes, but only to schools or institutions owned or operated, or established by mission boards, religious orders or charitable institutions.

MR. VILLACORTA. In other words, we agree in concept as far as the Commissioner's amendment is concerned, but it is only in the matter of percentage.

MR. DAVIDE. Yes, and not only that; we leave it to Congress to provide later a total Filipinization.

MR. VILLACORTA. I see.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. In effect, that is an amendment to the amendment proposed by Commissioner Regalado as far as ownership of religious schools is concerned.

MR. DAVIDE. That is correct.

FR. BERNAS. So perhaps we would hear whether or not Commissioner Regalado accepts the amendment to his amendment.

MR. REGALADO. Madam President, I regret I cannot accept that amendment. I would prefer to fall back on the provisions of the 1973 Constitution.

MR. DAVIDE. Madam President, may I be allowed to explain?

After the implementation of the 1973 Constitution, most of those schools other than institutions owned by mission boards, or religious orders or charitable institutions immediately complied with the law which is the requirement of 60:40. So, if these institutions which complied with the 1973 Constitution on the said ratio are owned by religious orders as what Commissioner Regalado has said, there is no need for them to restructure the ownership, because my proposal will still allow them until Congress shall provide otherwise.

However, the present provision may affect those technically excepted religious orders, mission boards and charitable institutions as provided in the 1973 Constitution. We have to go a little beyond the 1973 Constitution. We have said that the new Constitution must be pro-God, pro-people or pro-Filipino, so we should not stick to the original wording of the 1973 Constitution. Let us hit at a very reasonable compromise. We will allow now a 60:40 requirement even for institutions run by religious orders, mission boards and charitable institutions. I understand that the committee is prepared to submit a proposal for the transitory provisions to allow a time frame for these mission boards, religious orders, within which to comply with the 60:40 requirement as to be mandated here. We are, however, making this flexible in the sense that Congress later, after it shall have determined the necessity of total Filipinization of these institutions may, by law, simply provide for that, instead of requiring later the rigorous process of amending the Constitution.

MR. REGALADO. Since there is the proposal of the committee to make it 75:25 and with respect to the existing educational institutions run by religious orders, may I ask Commissioner Davide to contemplate a transitory provision within which they will be able to comply from 60:40 to 75:25?

MR. DAVIDE. I understand, however, that many of the religious orders maintaining schools immediately complied with the 60:40 ratio. Then there would be divestment procedure to be adopted. But I understand that the committee would be willing to submit a proposal in the transitory provisions regarding a period within which to divest, if the ratio of ownership would be 75:25. But under my proposal there is no need to divest, because in the meantime they shall be allowed to maintain the 60:40 ratio.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I would like to speak in favor of the original amendment of Commissioners Regalado and Bernas.

The problem in the country is that we lack schools. We lack high standard schools and we also lack schools in the rural areas and hinterlands. Hence, these religious organizations and missionaries have a very long tract record of giving tremendous contributions to the education of the Filipinos. Because these religious schools have a magnificent record of high academic standards, they were able to produce some of the best people in this country, like Quezon, Osmeña, Corazon Aquino and so forth. We are trying to amend the Constitution now in order to make it a little harder for them to operate the schools. These religious schools have done a tremendous contribution to the country, hence we should not try to hamper those schools that are doing very well for the country.

So, I am in favor of going back to the 1973 constitutional provision which would limit or which would call for a 60 *per centum* capital in order not to provide more difficulties for these schools which are needed. As a matter of fact, they are the heroes of the olden days because no Filipino teacher would dare go to the hinterlands on the top of the mountain to teach the natives there.

MR. DAVIDE. May I be allowed to respond, Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. First, the provision will not actually prevent religious orders, mission boards, or charitable institutions from establishing schools, but they can just organize, say, an institution under the corporation law and see to it that it would be a 60:40 ratio in favor of the Filipino. It is not that these religious orders or charitable institutions themselves will immediately put up educational institutions, but they will have to comply with certain laws. They can organize a partnership, 60 *per centum* of which will be Filipino citizens. They can organize a corporation and this corporation now shall maintain and establish the educational institution. So, they are free to come in and contribute to the educational system.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. I think we should not only consider the schools, religious though they may be, or religious-owned schools operating in Manila or even in the big provinces. What really worries me are those missionary schools up in the mountains in Cotabato, in Ifugao and in Baguio. These schools are owned by missionaries who are foreigners, like the Oblates, the La Sallites, the Passionist Fathers and the CICMs. They have parish schools in the mountains which are independent of their schools in Manila. They do not have Filipino employees there. Therefore, if we make the ownership even 60 percent Filipinos, these foreign missionaries will have to close their parish schools located in the mountains. But they are doing a good job. They are really helping the Filipinos, especially now that we have approved in this Constitution that the educational institutions shall develop moral character and personal discipline, strengthen ethical and spiritual values. Let us not talk of the schools in Metro Manila, in the cities and in the big provinces. Let us think of the missionary schools up in the mountains and which are run by foreign missions, the monies of which do not really come from here but from their respective countries. Why do we want to Filipinize these schools?

MR. COLAYCO. Madam President, may I give an additional reaction?

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. I think we should also bear in mind that the schools organized by religious orders, mission boards and charitable organizations are not organized for profit. If we require them to put up a 60-40 percent local capital, I doubt if we could find many Filipino investors who will invest money in a school which is not organized for profit. These schools are not organized for profit to the investors. And as pointed out by Commissioner Bengzon, the main moving spirit behind these schools is nothing but the religious purpose. So to expect that we put up our own 60 percent capital might not be a very practical expectation. This may be reasonable if we are talking of universities which are, shall we say, semi-religioius or semi-commercial. But we are now speaking of the schools put up by religious orders, mission boards, and charitable organizations. And as mentioned by Commissioner Bengzon, most of these schools are in the hinterlands and they are doing a very good service to our country.

Thank you, Madam President.

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Madam President.

Madam President, with respect to this requirement that 60 percent of the capital of these schools owned by religious organizations be owned by Filipinos, I believe it is reasonable requirement. In fact, it should be increased by 75 percent. The way the corporation law operates in that nonprofit, nonstock corporations are required to have a minimum of P5,000 capital. So all they have to put up really is P5,000. That is the capital of a nonprofit, nonstock corporation. Now, who owns that capital? It will be the incorporators who will own that capital. So if we require that 60 percent of ownership should be Filipino, it should appear that out of 10 incorporators, six should be Filipinos and there can even be four foreigners. So, there is no difficulty there, because the owners of the capital in a nonstock corporation are the members of the incorporators themselves. Thus, it is very easy for them to put all Filipinos as incorporators since the required capital is only P5,000.

Thank you.

MR. RAMA. For the last speaker, we have Commissioner Guingona.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Madam President, the committee believes that ownership and administration are linked together, because it is the ownership that controls the purse. We can talk about a charitable institution with a 100 percent Filipino administration, but the owners of which are all foreigners. There is the danger that foreign ideas or foreign ideologies might be transmitted through said school and, perhaps, it is not wrong for us to believe that Filipinos would be in a better position to inculcate patriotism and nationalism than foreigners.

MR. VILLACORTA. Madam President, on behalf of the committee, there are a few points that the members would like to bring up.

THE PRESIDENT. May I beg the Commissioner's pardon?

MR. VILLACORTA. There are just a few points that we would like to bring up, Madam President.

First of all, we might be worried about ghosts here. It has been affirmed over and over again that Protestant and Catholic missionary schools are Filipinized. Why are we worried about the missionaries in the hinterlands? There is nothing to be apprehensive about because they are already Filipinized. Second, we are creating here a situation where we require nonreligious institutions to be 100 percent Filipino-owned and we exempt religious institutions and allow them to be zero percent Filipino-owned. This smacks of class legislation and it seems that the Commission is worried about maintaining the separation of Church and State.

Hence, here is a situation where we are giving a special privilege to Church-related schools. The committee also would like to support the suggestion of Commissioner Guingona that we are not for education's sake alone. We would like a pro-Filipino educational system. And it is correct to say that there is validity in the point raised by Commissioner Guingona – that what comes with foreign ownership and management will be foreign ideas. Even if there are prescribed curricula and thrusts from the Ministry of Education, Culture and Sports, from the Constitution and from the different government agencies, there is still the tendency for foreign-owned schools to teach additional subjects inculcating foreign ideals.

I remember when there was a group of Cordillera delegates here, they expressed their regret over the preponderance of foreign-owned missionary schools. They said that the government should establish more schools, more public and even private schools in the hinterlands but they should be Filipino-owned. They requested so because according to them what are being taught by these foreign missionaries are not exactly in line with nationalistic ideas, with indigenous culture, et cetera. These were expressed by the Cordillera people themselves who were here a few weeks ago.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 1:09 p.m.

RESUMPTION OF SESSION

At 1:12 p.m., the session was resumed with the Honorable Jose F.S. Bengzon, Jr. presiding.

THE PRESIDING OFFICER (Mr. Bengzon). The session is resumed.

ADJOURNMENT OF SESSION

MR. RAMA. Mr. Presiding Officer, I move that we adjourn until Monday at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Bengzon). The session is adjourned until Monday at nine-thirty in the morning.

It was 1:12 p.m.

R.C.C. NO. 77

Monday, September 8, 1986

OPENING OF SESSION

At 9:56 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Gregorio J. Tingson.

Everybody remained standing for the Prayer.

PRAYER

MR. TINGSON. From the Holy Scriptures, specifically from the Book of Hebrews, we read about the subject of faith:

> Now Faith is the substance of things hoped for, the evidence of things not seen, for by it the elders obtained a good report. Through Faith we understand that the worlds were framed by the Word of God so that things which are seen were not made of things which do appear.

Let us pray. Loving heavenly Father, Whose we are and Whom we serve, we approach Thy throne of grace this morning as we start another day of work at our Constitutional Commission with deep humility and with a profound sense of gratitude; deep humility because we are not worthy to be entrusted with such a heavy and intricate task; profound gratitude because we can do all things through Christ Who strengthens us which is really faith at work; faith which is the substance of things hoped for, the evidence of things not seen; faith which is the flow of divine energy through us who are willing to do that which is well pleasing in Thy sight; faith which is believing the incredible, seeing the invisible and doing the impossible.

Our country, dear Lord, needs a political stabilizing document. Help us write it well. We need to finish this Charter fairly soon. We cannot afford to disappoint our people. Bless us with a discerning mind, a believing heart, a strong physique, and a living and uncompromising faith.

And along with St. Paul, we declare true faith in Thy goodness, tolerance and understanding when he said: "This is our work and we can do it because Christ's mighty energy is at work within us."

In the Blessed and Matchless Name of Christ, we pray. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present
Alonto	Present	Nieva	Present
Aquino	Present*	Nolledo	Present*
Azcuna	Present*	Ople	Present*
Bacani	Present	Padilla	Present
Bengzon	Present	Quesada	Present
Bennagen	Present*	Rama	Present
Bernas	Present	Regalado	Present
Rosario Braid	Present	Reyes de los	Present
Calderon	Present*	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present	Rosales	Absent
Davide	Present	Sarmiento	Present
Foz	Present	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present	Tadeo	Present
Guingona	Present	Tan	Present*
Jamir	Present	Tingson	Present
Laurel	Present*	Treñas	Present
Lerum	Present*	Uka	Present
Maambong	Present*	Villacorta	Present*
Monsod	Present	Villegas	Present

The President is present.

The roll call shows 33 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

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*Appeared after the roll call.

MR. RAMA. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. RAMA. Madam President, I move that we approve the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letters urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, each from the following:

(1) Miriam E. Auza 60-B Mabilis Street Diliman, Quezon City	Communication No. 759
(2) Beth Bañez 32-A Scout Madriñan Quezon City	Communication No. 760
(3) Josephine Sasoy 56 Miranda Street Panabo, Davao	Communication No. 761
(4) Ana E. Japay 58 Peach Street SSS Village Marikina, Metro Manila	Communication No. 762
(5) Orpah Marasigan 32-C Scout Madriñan Quezon City	Communication No. 763
(6) Karenina B. Montemayor Beverly Hills Subdivision Antipolo, Rizal	Communication No. 764
(7) Beth C. Manalastas Sampaguita Street, Sto. Nino San Fernando, Pampanga	Communication No. 765
(8) Jing Carpio 32-A Scout Madriñan Quezon City	Communication No. 766
(9) Leah M. Darwin 73-E Scout Lazcano Diliman, Quezon City	Communication No. 767
(10) Cyd H. Latuño 66-D Gen. Lim Street Heroes Hill, Quezon City	Communication No. 768
(11) Rachel Ma. Virtucio 70-3 Gen. Malvar Street Davao City	Communication No. 769
(12) Adela S. Erpelo 914 Guadalupe BLISS I Makati, Metro Manila	Communication No. 770
(13) Maria Jovita M. Perez 56 Luna Street San Pedro, Laguna	Communication No. 771
(14) Lutgarda Ocastro 1721 Phase 3 Guadalupe BLISS Makati, Metro Manila	Communication No. 772
(15) Leonida Ramos 217 Paraiso Street Tondo, Manila	Communication No. 773
(16) Alvina Torres ACPO Box 51 Quezon City	Communication No. 774
(17) Roy Bolina 70 Scout de Guia Street Quezon City	Communication No. 775
(18) Zillah Balico Barotac Nuevo Iloilo	Communication No. 776
(19) Rowena Jameo Quezon City	Communication No. 777

To the Committee on General Provisions.

Letter from Mr. Manuel Navoa expressing his gratitude and that of the 300 persons in death row for the abolition of the death penalty and also seeking the enactment of a law providing compensation to acquitted prisoners, as well as to victims of crimes.

(Communication No. 778 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Communications urging the Constitutional Commission to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from the following:

(1) 121 signatories from BIR Catholic Charismatic Community, East Triangle, Diliman, Quezon City;

(2) 7005 concerned citizens of the Province of Misamis Occidental.

(Communication Nos. 779 and 780 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Jesus B. Blando, submitting Resolution No. 1 of the BIR Improvement Movers Association, urging the creation of a Constitutional Commission on Revenue.

(Communication No. 781 – Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Communication from Mr. Delfin R. Manlapaz of 1707 E. Rodriguez, Sr. Boulevard, Cubao, Quezon City, suggesting a constitutional provision mandating the State to create a citizen-owned reservoir of national credit, wherein each citizen, natural-born or naturalized, is credited with a prorated initial bank deposit.

(Communication No. 782 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we resume consideration on Second Reading of the proposed Article on Education, Science, Technology, Arts and Culture.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Human Resources are requested to occupy the front table: Commissioners Villacorta, Guingona, Quesada, Bennagen and Gascon.

MR. RAMA. With the indulgence of the body, Madam President, there is a registered request for a three-minute question of privilege in behalf of the Muslim population. I ask that Commissioner Alonto be recognized.

THE PRESIDENT. May we know the nature of the question of privilege, because as a rule, privilege speeches are to be held on Friday, unless there is some urgency for them. So, may we know the subject of the privilege?

MR. ALONTO. Madam President, this concerns the reaction of the Muslim community to the historic peace mission of the President of this country to the South.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; Commissioner Alonto may proceed.

QUESTION OF PRIVILEGE OF COMMISSIONER ALONTO

MR. ALONTO. Thank you, Madam President.

I rise this morning, in the name of God Almighty, on a question of collective privilege to put on record the reaction of the Muslim population of this country to that historic trip of the President of this Republic to the South.

Last Friday, September 5, 1986, which happened to be the first day of the first month of the Hegira Year 1407, the President of the Republic stepped down from the pedestal of power and, against the advice of her advisers and well-wishers, proceeded to the South, to one of the centers of Muslim population in the Philippines—at Jolo, Sulu – and there she met with former UP Professor Nur Misuari, the leader of that portion of the Moro National Liberation Front which has persisted in its stand to secede from this Republic. In her own words, that trip was for her a mission of peace and she said she would do anything for the sake of peace. As a Muslim and as a citizen of this Republic – and I know that all my fellow Muslims in this country are with me—I sincerely congratulate her and all those who accompanied her on that mission of peace which hopefully can bring peace to that part of the country.

I would also like to point out the fact that the President chose as the venue of her historic meeting with Professor Misuari a convent – the convent of the Carmelite nuns, which is situated in the midst of a Muslim city which had not known peace for almost two decades during the regime of Mr. Marcos.

President Aquino chose to go on her historic mission of peace on the first day of Hegira Year 1407, an occasion highly symbolical of the Islamic objective, which is peace. The President and Nur Misuari met in a convent, which in Islam is a House of God, just as any building where the name of God Almighty is openly and oftentimes mentioned as a House of God such as a church, a mosque or a synagogue. In Islam these are sacred places where peace and security must reign and where hatred, dissension and disunity are not allowed.

In her statements to the audience in Zamboanga City and in Jolo, President Aquino told the people, and I quote:

> I am not afraid to face any danger. I am ready to face anything and if I have to make sacrifices, gladly will I do it, if only to achieve peace for all. After all, what good is a leader if he is not capable of attaining peace and order for the people? We must remember we are Filipinos and we

> must not countenance this bloodshed and killing of Filipinos by Filipinos.
>
> I am confident that as long as I am true to the people, they will continue to have faith in me. So long as the people have confidence, the leaders will have credibility, which is important at this time in our country.

Those meaningful statements, filled with sincerity for the welfare and well-being of the Filipino people, including Muslims and Christians and even pagans, demonstrate the President's deep and sincere concern for the welfare and well-being of the nation. And so she deserves not only the accolade of the Filipino people but also their complete support and cooperation in all the policies and efforts to achieve the best for the people of this country.

At this point, Madam President, let me digress a little in stating that the objective of the mission of our President to the South was to look for a situation or atmosphere where peace could be established. About 12 years ago, that atmosphere was recommended by a group of 20,000 Muslims during a conference called by President Marcos regarding government policies on Muslim Mindanao. The 20,000 Muslims who signed this petition declared that the only workable solution to the national crisis in relation to the Muslim community, short of complete independence for them, is the grant of a complete local autonomy to the Muslims and with the following basic features, among others, to be guaranteed:

1. A definite and guaranteed territorial jurisdiction.
2. A legislative power to adopt local laws based on the Holy Qur'an and the *Sunnah* of the Holy Prophet (Peace be upon him).

This recommendation of over 20,000 Muslims was based on what Dr. Cesar Adib Majul said in a privilege speech before the Constitutional Convention of 1971, and I quote:

> Let us abandon the 'straitjacket' to which we were plunged by our erstwhile master as a condition *sine qua non* to the grant of a political freedom and which became the basic cause of our failure to imbue the society with a desirable sense of oneness and a common destiny. For unless we can bestow to our people a sense of oneness and common destiny, there seems to be no possible recourse to contain the process of disintegration going on in our very midst, involving not only a certain sector of our society but its whole entirety.

Again, let us listen to the wisdom of the following statement made by Dr. Majul relevant to this particular issue:

> The present-day requirements of a developing society which is a universal phenomenon make it crucial to emphasize the positive contributions of divergent groups or sub-cultures within the wider community. The experiences of some of the most developed countries which are competing with one another to serve as models of what a modern society should aim at demonstrate that it is infinitely wiser to maximize the efforts of every group in the body politic rather than to suppress one in favor of a majority.

Madam President, this august body has sufficiently contributed its effort in supporting the policy of the President. For in connection with the task assigned to this august body and in spite of the constraints of time, this Commission has clearly demonstrated its support for the efforts of the present regime, led by our beloved President, in establishing peace, harmony and unity. This was manifested by the body's unanimous approval on Second Reading of the report of the Committee on Local Governments, which includes the provision for the establishment of the autonomous regions in Muslim Mindanao and the Cordilleras. The approval on Second Reading took place on August 21, 1986 at 12:45 p.m., which incidentally was the date and the hour, three years ago, when our hero and martyr, former Senator Ninoy Aquino, was assassinated at the tarmac of the Manila International Airport before he could touch Philippine soil to perform a mission of peace.

It has been stated on the floor of this august body by distinguished Members of this Commission that the rationale, the most important imperative for the creation of autonomous regions for Muslim Mindanao and the Cordilleras, was to solve a persistent problem of peace that has pestered the harmonious effort at nation building in this country for the last two decades.

Madam President, before I close, allow me to implore the guidance of Almighty God, not only in the deliberations of this august body, but also for all the Filipino people, particularly our President who has demonstrated that she, as of this moment, is capable of leading us on the road to peace and hence, success.

I thank you, and may Allah bless us and grant us peace.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. The last proponent when we adjourned last Saturday was Commissioner Regalado.

May I ask that Commissioner Regalado be recognized to present his amendment.

SUSPENSION OF SESSION

THE PRESIDENT. Before we recognize Commissioner Regalado, the session is suspended for a few minutes.

It was 10:19 a.m.

RESUMPTION OF SESSION

At 10:41 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, the concepts being discussed now are first, ownership of all schools, and the committee is proposing that it be 100-percent ownership. The second concept has to do with ownership of educational institutions of religious orders, missionary boards and charitable organizations. And here, the committee is proposing 75-percent control by Filipinos.

So, Madam President, we are discussing two issues here: ownership of nonreligious schools and ownership of religious schools.

THE PRESIDENT. Do we have any speakers for the first concept – on private educational institutions wholly owned by Filipino citizens other than the religious?

MR. PADILLA. Madam President.

THE PRESIDENT. Vice-President Padilla is recognized.

MR. PADILLA. In the last session, I asked to be recognized to support the view of Commissioners Regalado, Bernas and others for the return of the provision in the 1973 Constitution.

The schools or educational institutions of religious orders and mission boards should not be subject to ownership requirement. These are the many schools of religious orders and mission boards that are not only in the urban or metropolitan areas but also in the remote places where we hardly have any school. The excuse is that many of our colleges and universities are "Filipinized." But even Commissioner Bernas, President of the Ateneo University, admitted or stated in the last session that not all colleges and universities of religious orders are wholly owned by Filipino citizens. On a previous occasion, I had my doubts as to the meaning of the word "Filipinized" because the University of Santo Tomas has a Filipino Dominican as President, and so forth. But that might only refer to administration or management, and not necessarily to ownership. I believe that religious orders whose members are pledged to the three vows of obedience, chastity and poverty cannot really own any portion of the educational institution whose valuable assets consist of premier lots, enormous buildings and equipment for adequate education. Likewise, Madam President, the requirement for the other educational institutions, as corporations or associations according to the 1973 Constitution, is sixty *per centum* of the capital of which is owned by such citizens.

I reiterate my support and conformity with the proposed amendment to the committee report that we return or revert or readopt the 1973 Constitution.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Regalado be allowed to restate his amendment which was a result of his conference with the majority of the members of the committee and Commissioner Davide.

MR. GUINGONA. Madam President, may I be allowed to react to the statements of the honorable Commissioner Padilla?

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. The stand of the committee as mentioned by our chairman, the honorable Commissioner Villacorta, is for a 75-25 ratio, although our chairman and I have expressed the view that we would be willing to pare this down or reduce it to a 60-40 level. There are several reasons, and one of these has been brought to our attention by Commissioner Regalado himself during the caucus that occurred after the suspension of session. Referring to the school where he is the dean of the college of law, Commissioner Regalado mentioned that the charter of this school provides that upon liquidation, all the assets of the school will revert to the religious organization which owns it. Where we have the religious organization which is 100 percent owned by foreigners, the assets will revert to the religious organization which is 100 percent foreign-controlled.

I was wondering whether there could be measures to make sure that this foreign religious organization will not bring out these assets for use outside of our country. So I was thinking that a 60-40 ratio might be initially provided, but with perhaps a saving clause that the legislature may change this ratio later on.

Thank you.

MR. RAMA. I ask that Commissioner Regalado be recognized.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, first a comment on the interpretation of Commissioner Guingona. It was not correct to say that the assets of the school with which I am connected, when it should be dissolved, will go back to foreign ownership. It will just go back to the Order and the Order involved is the Los Padres Benedictinos de Filipinas, not a foreign entity.

With respect to the proposed amendment on Section 4 (a), after conferring with the committee, as well as Commissioners Davide, Padilla, Rodrigo and others, we have more or less reached a consensus that with respect to schools established by charitable organizations, we do not feel very strongly about this. In the first place, most of us are not even aware what these charitable organizations contemplated in the 1935 and 1973 Constitutions are, as supposed proprietors of educational institutions. Although there was mention about YLAC or something, we have no information on the point. But the Commissioners I have consulted are more concerned about the educational institutions established by religious orders and mission boards, excluding those by charitable organizations.

There is more or less a consensus that we make a little change from the 1973 provision to the effect that said educational institutions shall continue to operate as they now operate under the exemption of the 1973 Constitution, until Congress shall provide otherwise in the future. Whether Congress will provide for that in 10 or 5 years from now, we leave it to Congress, but the institutions will operate under the exemption from the equity requirement under the 1973 Constitution until such time.

With respect to the other schools – proprietary, cooperative or foundations – there has been no consensus as to whether the equity should be 60-40, 75-25 or wholly owned and we would prefer that insofar as those schools are concerned, the equity stated there should be submitted to the floor. Originally, the committee I think adopted the 1973 constitutional provision for 60-40, after which there was a proposal of 75-25, but now the committee is for complete and full ownership insofar as these schools not owned by religious orders or mission boards, which are broad enough to include proprietary schools, free-stock proprietary schools, those owned by cooperatives and the foundations, are concerned. So they would prefer that one to be submitted to the floor.

MR. GUINGONA. Madam President, may I just react to the statement of Commissioner Regalado.

I do not dispute that as far as his school is concerned, the religous organization is 100% Filipino or majority of these organizations are Filipino-controlled, but I am thinking of other religious organizations or mission boards which, if there is no restriction provided in the Constitution, may be fully owned by foreigners and they may also have a similar provision which will say that upon liquidation, all the assets will go back to this organization which is 100 percent owned by foreigners.

MR. REGALADO. I was wondering if the committee, for that purpose, could conduct the corresponding survey, get the corresponding data from the Securities and Exchange Commission, the Ministry of Education, Culture and Sports, so that instead of going on speculations, surmises and conjectures, we will have a basis to discuss here.

MR. VILLACORTA. Madam President, we do have data. Last week, we said that the Securities and Exchange Commission did not have classified files but then we got this directory from the Catholic Educational Association of the Philippines. I wonder what Commissioner Regalado has in mind. We are not talking here about Metro Manila schools, I presume.

MR. REGALADO. I think we should get the complete data so we would know. It is very hard to be discussing when we do not know the real situation.

MR. VILLACORTA. This directory would affirm what Brother Rolando Dizon, President of the CEAP, has said about all Catholic schools being Filipino-owned, whether on a 60-40 or 100 percent equity. We are worrying, as I said, over a phantom – there is no missionary school now that is non-Filipino owned, and Commissioner Rigos has spoken for the Protestant schools. Now, why are we making an exception for schools that are not existent? Why are we so worried about alien missionary schools? And why should we constitutionalize this worry?

MR. GUINGONA. Madam President, it would seem that our committee does have some statistics although these are not really very complete, but I would like to call the attention of the honorable Commissioners that the proposal of Commissioner Regalado would refer not only to existing schools but would involve schools that will be established in the future.

MR. REGALADO. Yes.

MR. GUINGONA. And there could be no data as far as the schools in the future are concerned.

MR. REGALADO. No, the existing data are what I am referring to.

MR. GUINGONA. As I said, we do have some data which our chairman has presented but it seems to me that those who have proposals to make have absolutely no data themselves.

MR. REGALADO. Madam President, Commissioner Guingona mentioned about the other religious orders and the provision that in case the school is dissolved, its property and assets will revert to the religious order. But the Commissioner said he is not familiar with respect to the other religious orders. I would think that those data are available in the Ministry of Education, Culture and Sports because such facts are submitted for purposes of authority to operate and for recognition. The data may not be in the Securities and Exchange Commission. That is true, because formerly, corporations sold did not register in the Securities and Exchange Commission until only very lately. But I would think those data may be available in the Ministry of Education, Culture and Sports in connection with the application of that school for the authority to operate or for government recognition. The data that may be in the CEAP records may not be complete because those are done purely on a voluntary basis. Some Catholic schools may not have sent the corresponding data, but in the Ministry of Education, Culture and Sports, I assume, those data are required to be submitted.

THE PRESIDENT. Shall we hear Commissioner Bacani first so that there will only be one response?

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. A point of information, Madam President. Because of the vocation crisis in Europe, many religious orders are coming to the Philippines, and Cardinal Sin has spoken to us more than once of religious congregations wanting to come here and they are increasing in number. Among the recent arrivals here which could not have Filipino members at present are, for example, the Scalabrini Fathers, the Servants of Mary, and among the nuns, I can name of a very recent arrival, the Congregation of St. John the Baptist which has, in fact, a school which I recently blessed. I think the school is in a subdivision in Parañaque or Las Piñas.

These religious congregations will be coming in increasing numbers. If they should want to establish schools, obviously, they will not and cannot have Filipino members immediately. It will take a minimum of eight years before they can recruit, before they can have what we call a perpetually professed member; that is, a full member of the institute. Hence, for that reason, it will take some time. And yet, one of the means by which they can grow in the Philippines and by which they can carry out their mission is precisely through the building of schools.

That is why, I would be in favor of retaining this provision with the additional phrase "UNLESS OTHERWISE PROVIDED BY LAW." I would be in favor really of Congress later on legislating for the transfer of ownership within a certain period of time because we do need to Filipinize even schools of religious orders. Besides, that has also been a trend, for example, in the Catholic Church. But there are cases, and they may increase in the near future, where it will not be possible to have 100 percent Filipino ownership of such schools, not even on a 60-40 basis.

Thank you very much.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. For an intelligent voting on this particular issue, may I move that we vote first on ownership of schools not run by religious orders and mission boards, and then we can take up later the issue of ownership of educational institutions owned and maintained or to be owned and to be maintained by religious orders and mission boards. I have a proposal for a 100 percent Filipinization of educational institutions not run by religious orders and mission boards; and another proposal for educational institutions run by said religious orders or mission boards.

THE PRESIDENT. What we have here is the committee report, and as stated by the chairman, the committee report submits that private educational institutions shall be owned solely by citizens of the Philippines or corporations or associations wholly owned also by such citizens. I believe that the committee sticks to that particular portion of their report.

Would Chairman Villacorta agree to a voting first on this particular section?

MR. VILLACORTA. Yes, Madam President, the committee agrees.

THE PRESIDENT. Private educational institutions other than those established by religious orders.

MR. VILLACORTA. Yes, Madam President.

MR. MONSOD. Madam President, may I just ask a question on this point.

THE PRESIDENT. Please proceed.

MR. MONSOD. I just wanted to know if the committee has any complementary proposals, perhaps in the Transitory Provisions, on how much time these institutions will be allowed in order to reach the 100 percent proposed by the committee.

MR. VILLACORTA. I am glad the Commissioner asked that. We were going to propose in the Transitory Provisions that Congress determine the period within which the foreign-owned religious schools may divest their . . .

MR. MONSOD. Excuse me. In other words, is the Commissioner saying that it does not take effect immediately upon ratification? Suppose Congress says 20 years, it is not immediately executory?

MR. VILLACORTA. No, it is not. We will leave it to Congress, because Congress would have the luxury of time to look more into the problem.

MR. MONSOD. Would the Gentleman accept the phrase, "WITHIN THE PERIOD DETERMINED BY CONGRESS"? Because I understand even from statistics that most or all of them are 60 percent owned by foreigners; maybe some are over 60 percent. But unless there is a provision that is proposed that will go along with this, it would mean that right after ratification, there has to be a compliance.

MR. VILLACORTA. I consulted other members of the committee. They would want that allowance to be in the Transitory Provisions.

MR. MONSOD. All right. But what is the period specified? What is the Gentleman's proposal for the period? Is it just an open-ended period or is the Gentleman going to state a period?

MR. VILLACORTA. It is an open-ended period to give Congress the leeway to decide the time frame.

MR. MONSOD. Thank you.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Before we vote, could we just set the principle that should guide us in deciding whether or not the schools, other than religious or charitable schools meaning, the proprietary schools, will also be allowed to be owned by foreigners? I think the underlying principle that the committee was guided by is the recognition that education is a very vital mechanism for inculcating and developing the concept of nationalism. That once Filipinos do not have that effective control in this particular dimension of our societal life, then we can never learn to become self-reliant and that there will always be this subservient and colonial mentality that is characteristic of our citizenship.

I think that should help us now look at education as a very vital instrument for the liberation that we were talking about, the total human liberation and development of the Filipino.

MR. VILLACORTA. Madam President, may we call for a vote on the first issue?

THE PRESIDENT. Commissioner Bernas, I believe, would like to be recognized.

FR. BERNAS. Madam President, for a more solid decision on this, I would suggest to the committee that what they contemplate to put in the Transitory Provisions be included in the discussion now because the vote of many will depend on how the Transitory Provisions will look like. It would be easy enough for us to transfer that to the Transitory Provisions even after we shall have approved it, otherwise we will be voting on this, not knowing what the Transitory Provisions will be, or whether we are already approving what we contemplate to be included in the Transitory Provisions.

MR. VILLACORTA. Madam President, the vote that the committee is asking for is on the first issue.

FR. BERNAS. Precisely, even on the first issue, we have a 60-40 position at the moment. How much time are we giving them to go 100 percent?

MR. VILLACORTA. Madam President, we are allowing Congress to have the flexibility to determine the time frame.

FR. BERNAS. But will the committee or the Commission be allowing Congress? Those two are together.

MR. VILLACORTA. All right.

FR. BERNAS. So, this is one whole package.

MR. VILLACORTA. It is the committee proposal that for the first and the second issues we would like Congress to determine the time frame in the Transitory Provisions.

FR. BERNAS. Suppose we take that up first, because the vote on the main body of the proposal could also be affected by what we approve in the Transitory Provisions. People may be willing to vote in favor of the body provided that the transitory provision is there. But for as long as the transitory provision is hanging, then we are not in a position.

MR. VILLACORTA. The committee accepts the suggestion of Commissioner Bernas.

FR. BERNAS. May I suggest that we vote first on this proposition that Congress will provide the time frame for transition.

MR. VILLACORTA. All right, the committee accepts the suggestion.

FR. BERNAS. Assuming that we go 100 percent, assuming we change this, Congress will provide for the transition.

MR. VILLACORTA. Yes, that suggestion is accepted.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I ask Commissioner Bernas whether he will be amenable to changing the order first? Instead of the question of Congress providing the length of time of transition, let us decide first on the ownership question.

FR. BERNAS. We are not talking about the mission boards yet.

BISHOP BACANI. Not yet?

FR. BERNAS. We are talking about proprietary schools.

BISHOP BACANI. Just proprietary schools?

Thank you very much.

MR. GUINGONA. All educational institutions except religious and mission boards.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. May I raise the same observation which I made on the provision on free high school education. In that provision, I proposed that we do not separate two parts of the provision – the head from the tail. My proposal was to state clearly that the government try to provide free high school education. But what the committee did was, in the body, it placed a categorical statement that the State shall provide free elementary and high school education, and then it separated the portion providing discretion to Congress and placed this in the Transitory Provisions. So, I said this can be deceptive because when one reads the body of the Constitution, he will be led to believe that the government is guaranteeing free elementary and high school education, and then it separated the portion providing discretion to Congress and placed this in the Transitory Provisions. So, I said this can be deceptive, because when one reads the body of the Constitution, he will be led to believe that the government is guaranteeing free elementary and high school education, unless somebody tells him: "Wait a minute, there is a proviso in the Transitory Provisions." Many people will not see that. And so my suggestion was not to split these two; instead, combine them.

That is the same observation I want to make now. Let us not separate these. Why not just say in one provision "unless otherwise provided by law"? Then people will see that this is subject to the action of Congress. The provision will not then be deceptive. Then in one reading, one knows the whole meaning now – to wit, that the Constitution is giving Congress the discretion to change it. That is my observation, Madam President.

MR. TREÑAS. Madam President.

THE PRESIDENT. Commissioner Treñas is recognized.

MR. TREÑAS. After consulting with the other members of the committee, we feel that there is merit in the suggestion of Commissioner Rodrigo that instead of putting that provision regarding the period within which an educational institution shall be converted to 100 percent Filipino, if ever it is approved, it may be stated in this same article itself.

MR. RODRIGO. Yes, it should be, I think.

MR. TREÑAS. So that the article may provide, more or less, that educational institutions shall be owned by Filipinos, so forth and so on, and Congress is given the right or prerogative to provide a time within which educational institutions shall comply with the provisions of this article. So, there is no more need of putting it in the Transitory Provisions because it can be embodied in the provision itself.

MR. RODRIGO. I think that is the nature of the amendment proposed by Commissioner Regalado.

MR. TREÑAS. And it would be clearer for those who may be reading the provisions of the article, instead of being misled or referring still to the Transitory Provisions. That is why it is the stand of the committee, after discussing and hearing the suggestion of Commissioner Rodrigo, that there is merit unless, of course, we hear better reasons why it should be placed in the Transitory Provisions. For the moment, therefore, the committee accepts the suggestion.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. In other words, Madam President, the committee would accept the statement of the 1973 provisions with the proviso "unless otherwise provided by law" preceding it.

MR. TREÑAS. No, Madam President.

MR. REGALADO. May we have at least the gist of what the Commissioner proposes?

MR. TREÑAS No, that is not the sense of the committee. The committee stands by its report that it should be wholly owned by Filipinos, however, giving Congress the flexibility to provide the time within which present educational institutions which are not wholly owned can become wholly owned.

MR. REGALADO. May we have the formulation?

MR. TREÑAS. In fact, our chairman has now, mo or less, the formulation which he shall give to the bod

MR. VILLACORTA. Madam President, may we re the reformulation.

THE PRESIDENT. Please proceed.

MR. VILLACORTA. "Private educational institutions shall be owned solely by citizens of the Philippines, or corporations or associations wholly owned by such citizens EXCEPT FOR EDUCATIONAL INSTITUTIONS OF RELIGIOUS ORDERS, MISSIONARY

BOARDS AND CHARITABLE ORGANIZATIONS WHICH SHALL BE AT LEAST SEVENTY-FIVE PERCENT OWNED BY FILIPINO CITIZENS. CONGRESS MAY, BY LAW, PROVIDE THE PERIOD WITHIN WHICH THIS REQUIREMENT IS MET. THE ADMINISTRATION OF ALL SCHOOLS SHALL BE VESTED IN FILIPINO CITIZENS."

We added, Madam President, the sentence "CONGRESS MAY, BY LAW, PROVIDE THE PERIOD WITHIN WHICH THIS REQUIREMENT IS MET."

SUSPENSION OF SESSION

FR. BERNAS. Madam President, may we ask for a suspension of the session.

THE PRESIDENT. The session is suspended.

It was 11:15 a.m.

RESUMPTION OF SESSION

At 11:29 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Regalado be recognized.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, it is proposed as an anterior amendment that Section 4 (a) read as follows: "UNLESS CONGRESS OTHERWISE PROVIDES, EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION BOARDS AND CHARITABLE ORGANIZATIONS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS 60 *PER CENTUM* OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS. THE CONTROL AND ADMINISTRATION OF EDUCATIONAL INSTITUTIONS SHALL BE VESTED IN CITIZENS OF THE PHILIPPINES."

In other words, it is the 1973 Constitutional provision but subject this time to such prescription as Congress may provide.

MR. VILLACORTA. Madam President, the committee has its own formulation for the first part.

THE PRESIDENT. Please proceed.

MR. REGALADO. May we ask for a vote on that first, Madam President, as an anterior amendment. And if it is not carried now, the committee's formulation will be presented.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. One question for Commissioner Regalado. The phrase "unless otherwise provided by law" seems to include administration. Is the Gentleman referring only to ownership?

MR. REGALADO. Ownership only, Madam President.

FR. BERNAS. So, the Gentleman refers to ownership only.

MR. REGALADO. Yes, because the matter of administration is a second sentence.

MR. GUINGONA. Madam President, there are actually three issues here. The first issue refers to private educational institutions in general and it is on this that the committee has formulated the proposed provision. The second issue, which Commissioner Regalado has touched upon, refers to the exception as far as religious groups and mission boards are concerned.

The third issue is regarding administration but I think we should first vote on the first issue which is the general rule on ownership, with the proviso that Congress shall by law provide for the time frame within which the 100 percent ownership requirement shall be complied with.

MR. RODRIGO. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. I think the parliamentary situation is that there is a proposed amendment.

THE PRESIDENT. Yes, of Commissioner Regalado.

MR. RODRIGO. And I think we should vote on that proposed amendment now. If the proposed amendment is carried, then we proceed from there. If the proposed amendment is rejected, then let us go again to the committee formulation.

MR. GUINGONA. But, Madam President, there are three issues and the proposed amendment refers to the second issue.

MR. RODRIGO. It is all right. Then it is resolved.

MR. GUINGONA. But this is an anterior provision and I think we should first consider the anterior provision before going to the next provision.

MR. REGALADO. Madam President, we are not asking about the issues; we are asking for a vote on the entire proposed amendment.

MR. RODRIGO. On the proposed amendment.

THE PRESIDENT. All right. May the Chair now make some statements.

There is a proposed amendment of Commissioner Regalado which has been submitted to the body. In fact, we may say that it seeks to reinstate the provision of the 1973 Constitution as a substitute of the committee report. Therefore, we really have to vote on the Regalado amendment. But before doing so, the Chair will allow the committee to submit its new formulation in order to guide the Members of the Commission in casting their votes on the Regalado amendment.

So, will the chairman please read the committee formulation with respect to the private educational institutions, other than religious.

MR. VILLACORTA. Madam President, the committee formulation is as follows: "PRIVATE EDUCATIONAL INSTITUTIONS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS WHOLLY OWNED BY SUCH CITIZENS, PROVIDED THAT CONGRESS SHALL DETERMINE THE PERIOD WITHIN WHICH EXISTING EDUCATIONAL INSTITUTIONS SHALL COMPLY WITH THIS REQUIREMENT." This incorporates the suggestions of Commissioners Monsod, Bernas and others, and we also took into consideration the suggestion of Commissioner Rodrigo that we provide for congressional action within the body of the provision and not in the Transitory Provisions.

THE PRESIDENT. All right. So we have this Regalado amendment and the suggested formulation of the committee, so that in casting our vote, I hope that we will all be guided accordingly. We are now ready to vote on the proposed amendment of Commissioner Regalado; so, will the Commissioner please restate the same.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. May we clear up two points with Commissioner Regalado, Madam President.

THE PRESIDENT. Please proceed.

MR. SUAREZ. When the Commissioner suggested the employment of the phrase "unless Congress otherwise provides," I understand that he would want that to refer only to the matter of ownership and not to the matter of control and administration as provided in the second sentence of this particular section.

MR. REGALADO. That is right, as I have already answered Commissioner Bernas, because the matter of "administrative control" is a separate sentence.

MR. SUAREZ. Does the Gentleman have no intention of including that particular phrase under "administration and control"?

MR. REGALADO. No, Madam President. I am for full administrative control by Filipino citizens of all educational institutions.

MR. SUAREZ. In other words, even if they have not yet been Filipinized, the Gentleman would want that at the very least the control and administration should be vested in the hands of Filipino citizens.

MR. REGALADO. My understanding is that in the matter of "administrative control," they were already Filipinized as early as school year 1975-1976, except for two, I understand. But assuming that they have not yet all been Filipinized, then the purpose of the amendment is also to see to it that from the standpoint of administrative control they should also be Filipinized, if there should be any which have not yet been Filipinized.

MR. SUAREZ. Was that a way of implementing the provisions of P.D. No. 176?

MR. REGALADO. That is right.

MR. SUAREZ. Thank you.

The second point is, when we say "unless Congress otherwise provides," we contemplate a situation where private educational institutions need not be owned solely by citizens of the Philippines or wholly by corporations or associations. Is my understanding correct?

MR. REGALADO. Insofar as that portion is concerned, the Gentleman can refer to the exact provision of the 1973 Constitution which says:

> Educational institutions, other than those established by religious orders, mission boards, and charitable organizations, shall be owned solely by citizens of the Philippines, or corporations or associations sixty *per centum* of the capital of which is owned by such citizens.

This goes with the qualification "unless Congress shall otherwise provide," meaning that Congress may change the equity ratio.

MR. SUAREZ. The way it is formulated, it will deviate from the provisions of the 1935 and 1973 Constitutions because in those two Constitutions, what was provided was with respect only to corporations or associations which are not wholly owned by Filipinos. But the Gentleman's proposal will even include individuals.

MR. REGALADO. Then in which case, if that is the Commissioner's worry and to make it clear, we will make that qualificative phrase "unless otherwise provided by law" apply to corporations or associations because there is that sixty *per centum* equity. Whereas in the case of citizens, it should be wholly owned so it can be transposed to read "OR UNLESS OTHERWISE PROVIDED BY LAW OR BY CORPORATIONS OR ASSOCIATIONS SIXTY *PER CENTUM* OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS."

MR. SUAREZ. I think that is the correct formulation, but again that is diametrically opposed to what was suggested by the honorable members of the committee.

MR. REGALADO. That is why I consider this an anterior amendment, so that if it is rejected by the Commission, then we proceed with the committee's formulation.

MR. SUAREZ. Thank you for the clarification.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. One final question, Madam President. When we say "until otherwise provided by law" or "unless otherwise provided by law," do we mean to authorize Congress to decrease Filipino participation?

MR. REGALADO. No, Madam President.

FR. BERNAS. So, "unless otherwise provided by law" simply means that the law can make it 100 percent Filipino but in no case less than what is presently provided?

MR. REGALADO. Yes.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. In that case, will Commissioner Regalado accept an amendment to his amendment? I propose to insert "AT LEAST" between the words "ASSOCIATIONS" and "SIXTY *PER CENTUM*" so that the phrase will read: "OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY *PER CENTUM* OF THE CAPITAL OF WHICH . . ."

MR. REGALADO. That is accepted, because it puts the thought and the intendment raised by Commissioner Bernas into the intendment also of the amendment.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Just one point, Madam President. When we say "associations," do we include foundations? Because RA 6055 enjoins most educational institutions to change their structure into foundations. I just want it clarified whether or not foundations are included in the word "associations."

MR. REGALADO. As a matter of fact, under Section 25 of the Education Act of 1982 as I have heretofore mentioned, the matter of establishment of schools in the future is enjoined and required to be purely on a nonstock educational arrangement or a nonstock corporate arrangement. And the purpose there, among others, was to encourage the putting up of foundations.

MR. MAAMBONG. And so the answer is that in this formulation when we say "associations," foundations are deemed to be included in the term. Is that it?

MR. REGALADO. Yes, subject to the provisions of the Corporation Code on the matter of foundations.

MR. MAAMBONG. Do I understand from the creation of foundations that the government will exempt the foundations from the payment of all taxes, import duties, assessment and other charges imposed by the government, and that is why most educational institutions were enjoined to change their structure into foundations?

MR. REGALADO. Yes.

MR. MAAMBONG. Thank you, Madam President.

MR. REGALADO. Subject to such other requirements under the Corporation Code with respect to foundations.

MR. GASCON. Madam President, I have one question.

MS. QUESADA. Madam President.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. This is a question addressed to Commissioner Regalado. Did the Commissioner change the words "religious orders" to religious groups? Earlier, there was a concern expressed by Commissioner Alonto that we should take care that the Muslims are not prejudiced and that they also should be included in such provisions. Did the Commissioner take that into account?

MR. REGALADO. What would be the categorization, because we are referring to religious orders, mission boards and charitable organizations? I would be willing to accept an amendment to the amendment to read "RELIGIOUS GROUPS" which would include religious orders and religious societies.

BISHOP BACANI. Groups, yes.

MR. REGALADO. Aggregate or sole, as the case may be. "RELIGIOUS GROUPS" is accepted, Madam President.

BISHOP BACANI. I wish to introduce that amendment.

MR. REGALADO. I think that is broad enough.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Thank you, Madam President.

May I ask Commissioner Regalado some clarifications. If the Gentleman will recall during the discussion on the Article on National Economy and Patrimony, there were some questions on whether we would grant Congress the power to change the equity. But now the Gentleman is saying that the formulation would in fact grant Congress the power to modify the equity that is going to be provided in this particular section. Is that right?

MR. REGALADO. Yes. I recall in the discussions on the Article on National Economy and Patrimony there was Section 9 that authorizes Congress to increase the equity requirement even up to 100 percent. Now with the amendment of Commissioner Rodrigo stating "AT LEAST 60 *per centum,*" Congress may in the future not decrease the Filipino equity participation, but it may increase it up to 100 percent.

MS. QUESADA. So it is to increase the equity participation?

MR. REGALADO. The equity participation can be increased even up to 100 percent. It will not be decreased below 60 percent because of the amendment of Commissioner Rodrigo.

MS. QUESADA. I thank the Commissioner.

MR. OPLE. Madam President, will Commissioner Regalado yield to just one question?

MR. REGALADO. Gladly, Madam President.

MR. OPLE. Did I hear the Commissioner right earlier that private educational institutions are now wholly Filipinized except for two schools or colleges?

MR. REGALADO. Not administratively, because there are two kinds of Filipinization that were being discussed here – in the matter of ownership and in the matter of administration. From what I understand, under P.D. No. 176, effective April 16, 1973, all private institutions were required to be Filipinized from the standpoint of administrative control not later than school year 1976-1977. And my understanding, at least from the schools I have been dealing with, is that they so complied except that later I learned there was a little legal controversy about the University of Sto. Tomas. The Dominicans allegedly still had some foreign religious members there. And I recall that it was in the papers, and I think it was even raised in the Ministry of Education, Culture and Sports by Dean Marcos Herras of Adamson University. I understand, however, that they have now complied with it because the rector was replaced by a Filipino.

MR. OPLE. At this very moment, are we talking about ownership rather than administration?

MR. REGALADO. Regarding what is now before the body, insofar as administration is concerned, there is no question. The second sentence of the proposed amendment is to the effect that the control and administration of educational institutions shall be vested in citizens of the Philippines. So there is no question insofar as administration is concerned.

MR. OPLE. In a situation where ownership is shared between Filipino and foreign equity holders, can the Commissioner foresee various degrees of control over administration arising from that sharing of equity so that in the board of directors or its equivalent there remains vestiges of foreign preponderance, the board being the policy-making and determining body, and that, in fact, the so-called Filipinized administration can be specious and misleading since it will presumably yield to impositions of the policy-determining body where the foreign equity is significant or substantial?

MR. REGALADO. I do not believe so, Madam President, because on a 60-40 arrangement, the foreign equity holders are entitled to only 1/3 of the number of the board of directors or trustees thereof and the 2/3 majority are still the Filipino stockholders. In corporation law, the highest majority vote, subject to some exceptions, is only 2/3. So, ordinarily, the Filipino controls the majority vote.

MR. OPLE. Considering that the distinguished Commissioner is a very famous dean of a university. . .

MR. REGALADO. No, dean of a small law school, not of a university.

MR. OPLE. I stand corrected. We will grant the Commissioner his other trait for which he is noted, which is becoming modesty. But that has not changed the fact that he is in a position to contribute from that vantage point.

In the case of San Beda, Madam President, does Commissioner Regalado warrant that in spite of the significant participation of foreign equity in the policy-determining body of San Beda, this has no consequence whatsoever on the autonomy of the school administration?

MR. REGALADO. Insofar as San Beda is concerned, there is no foreign equity. All the members of its board of trustees are Filipino. We are just going to have a new election because Minister Lourdes Quisumbing is a member of the board of trustees and we are going to replace her.

MR. OPLE. Is this a corporation sole?

MR. REGALADO. They are all Filipinos, Madam President.

MR. OPLE. Is this a corporation sole or a corporation under the Securities and Exchange Commission?

MR. REGALADO. A corporation sole, duly registered, because it works coordinately with the Los Padres Benedictinos de Filipinas, which is a religious order.

MR. OPLE. One last question. If we choose the committee formulation meaning, then this amendment the Commissioner has put forward is rejected. What sort of impact would the Commissioner foresee on the educational system, especially on the children?

MR. REGALADO. Insofar as my amendment is concerned, things will be on a status quo as they have been since 1973, unless Congress now provides for an increase in the Philippine equity ratio. When we make it 100 percent, I suppose Congress would provide a time frame for such divestiture.

On the other hand, the committee wants it right away to be 100 percent Filipino and also to provide for a time frame within which the present Philippine equity ratio will be converted into 100 percent.

MR. OPLE. With a provision for a time frame to be set by Congress for the divestment.

MR. REGALADO. With a time frame also.

MR. OPLE. So the Commissioner and the committee are both headed for a common goal.

MR. REGALADO. Eventually, but the means employed should be different.

MR. OPLE. In the case of the Commissioner's amendment, he would leave to Congress the matter of determining future equity shares, whereas in the committee formulation, they want to fix that goal now of 100-percent Filipino equity subject to terms that Congress will provide. Does that sum up the respective distinctions?

MR. REGALADO. It makes a little difference.

MR. OPLE. Thank you.

MR. NOLLEDO. Madam President, I would like to ask a very important question.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President. Will the Honorable Regalado yield to one or two questions?

MR. REGALADO. I will yield to the Commissioner, Madam President.

MR. NOLLEDO. Thank you.

In the Commissioner's proposal, "OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION GROUPS AND MISSION BOARDS...," does it mean that these educational institutions run by religious orders, mission boards, et cetera may be owned 100 percent by aliens?

MR. REGALADO. As Congress may later provide.

MR. NOLLEDO. I do not think so because the general rule is with respect to educational institutions other than those established by religious orders. Even Congress may not change the equity requirements of schools run by religious orders as they now exist under the proposal. It is very clear: "OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS..." The Commissioner lays down the general rule and also the exception.

MR. REGALADO. No, Madam President.

MR. NOLLEDO. And so it means that the schools run by religious orders, et cetera may be owned 100 percent by aliens and the Congress is powerless to do anything about it, if it wants to Filipinize these schools.

MR. REGALADO. That is why the committee was proposing a transitory provision along that line which it has not formulated yet. I was asking for that formulation.

MR. NOLLEDO. But that transitory provision, Madam President, would be out of place if we approve the Commissioner's proposal which is very clear. Religious orders are exempted from the general rule, and the 60-40 arrangement can be changed by Congress. But that pertains to the general rule. The exception is very clear. That is why I agree with the issues presented by the committee.

Thank you, Madam President.

MR. TREÑAS. Madam President.

THE PRESIDENT. Commissioner Treñas is recognized.

MR. TREÑAS. A final word. Under the formulation presented by Commissioner Regalado, he leaves the matter to Congress, while under the formulation presented by the committee, it is left to this Commission itself. My last word is: Let us be the one to determine this matter, whether it shall be wholly owned or not, and leave to Congress the period within which existing educational institutions shall comply with this provision and not leave it to Congress as formulated in the proposed amendment.

MR. GUINGONA. Madam President, by way of clarification.

THE PRESIDENT. May we hear Commissioner Bernas first?

FR. BERNAS. Madam President, in response to the questions of Commissioner Nolledo, and I think they are very well taken, I think it is better to place "UNLESS OTHERWISE PROVIDED BY CONGRESS" at the beginning rather than at the middle of the sentence so that it will cover even religious schools.

MR. REGALADO. To obviate that apprehension of Commissioner Nolledo, and since Commissioner Rodrigo who was the proponent of that transposition appears to be in favor of it, considering now the possible implication, then we can transpose that qualificative provision at the outset to cover the situation of schools established by religious orders and so forth and, at the same time, also the so-called "proprietary schools" which are used in a broad sense.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. By way of clarification, if I am not mistaken, the honorable Commissioner Regalado includes within the exception to the general rule not only religious groups and mission boards but also charitable institutions. I would like to invite the attention of the honorable Commissioners that under the committee proposal, we will not include charitable institutions. And in reply to the interpellation of Commissioner Ople, the Honorable Regalado talked about a 2/3-1/3 ratio, but actually his proposal is not 2/3-1/3; it was 60-40.

Thank you, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I would just like to oppose the proposal of Commissioner Regalado by returning to the original proposal, placing "UNLESS OTHERWISE PROVIDED BY CONGRESS" at the beginning of the section because this would be far worse than the second proposal because it will now allow Congress to grant a private alien to own an educational institution. It will now allow Congress to not even require Filipino equity in any corporation or association to operate and establish an educational institution. It will even destroy the very exemption which we contemplate to be allowed to educational institutions operated by religious orders or mission boards. So it would really be a retrogression of the highest order.

THE PRESIDENT. May we now have the formulation of Commissioner Regalado. We will proceed to a vote immediately after its reading because otherwise, we will lose track of what is being proposed by the proponent.

MR. REGALADO. Madam President, may I have a short conference with Commissioner Rodrigo who was responsible for that prior transposition?

THE PRESIDENT. The Commissioner will please proceed.

MR. REGALADO. Madam President, after conferring with those whose amendments I have heretofore accepted but with the explanation I will hereafter give at their suggestion, the proposed amendment would read: "UNLESS OTHERWISE PROVIDED BY CONGRESS, EDUCATIONAL INSTITUTIONS OTHER THAN THOSE ESTABLISHED BY RELIGIOUS ORDERS, MISSION GROUPS AND MISSION BOARDS SHALL BE OWNED SOLELY BY CITIZENS OF THE PHILIPPINES OR CORPORATIONS OR ASSOCIATIONS AT LEAST SIXTY *PER CENTUM* OF THE CAPITAL OF WHICH IS OWNED BY SUCH CITIZENS. THE CONTROL AND ADMINISTRATION OF EDUCATIONAL INSTITUTIONS SHALL BE VESTED IN CITIZENS OF THE PHILIPPINES."

And by way of explanation, because of the comment of Commissioner Davide on the transposition of the qualificative phrase, "UNLESS OTHERWISE PROVIDED BY CONGRESS," it does not mean that Congress will hereafter allow foreign orders or foreign citizens to establish educational institutions contemplated herein. I want this explanation for the record.

VOTING

THE PRESIDENT. As many as are in favor of the amendment as read by Commissioner Regalado, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 23 votes in favor and 18 against; the amendment is approved.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 12:02 p.m.

RESUMPTION OF SESSION

At 12:04 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

The committee chairman is recognized.

MR. VILLACORTA. Madam President, we would just like to inquire from the Chair whether or not it is assumed that the first paragraph of Section 4 or the paragraph preceding paragraph (a) is approved. Is that a safe assumption, Madam President?

THE PRESIDENT. No, what was approved was the Regalado amendment which is a substitute amendment of the committee report.

MR. VILLACORTA. That is for subparagraph (a), Madam President.

THE PRESIDENT. Yes, subparagraph (a).

MR. VILLACORTA. But there is an unlettered paragraph before subparagraph (a).

THE PRESIDENT. Does the Commissioner mean the opening paragraph?

MR. VILLACORTA. Yes, the opening paragraph.

THE PRESIDENT. Does the Commissioner want to submit it to a vote?

MR. VILLACORTA. It has not been submitted to a vote. So we would like to formalize it.

THE PRESIDENT. Have there been any amendments submitted to the Floor Leader? This refers to the first paragraph of Section 4.

MR. ROMULO. Madam President, there are none listed.

THE PRESIDENT. How about the chairman? Are there any proposed amendments on Section 4?

MR. VILLACORTA. There are none, Madam President.

THE PRESIDENT. Will the Commissioner please read the first paragraph of Section 4.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I have a proposed amendment to the opening paragraph. I just want to put a period (.) after the word "institutions" on line 23, because the rest of the paragraph is already reflected in the general statement on education and it would be a surplusage.

MR. VILLACORTA. The committee accepts the amendment.

MR. MONSOD. I thank the Commissioner, Madam President.

THE PRESIDENT. Will the chairman please read now the opening paragraph of Section 4.

MR. DE LOS REYES. Madam President.

MR. VILLACORTA. Commissioner de los Reyes would like to say something, Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. I would just like to make a slight amendment on line 19, which is to insert the phrase "THE COMPLEMENTARY ROLES OF" between the words "recognizes" and "public." Then on line 20, delete the words "as complementary aspects of" so that the sentence will now read: "The State recognizes THE COMPLEMENTARY ROLES OF public and private educational institutions in an integrated system of Philippine education," and so on and so forth.

MR. VILLACORTA. The amendment is accepted by the committee, Madam President.

MR. DE LOS REYES. Thank you, Madam President.

THE PRESIDENT. Is there any other amendment? So will the Commissioner please read the whole sentence now.

MR. VILLACORTA. It would read: "The State recognizes THE COMPLEMENTARY ROLES OF public and private educational institutions in an integrated system of Philippine education, and shall exercise reasonable supervision and regulation of all educational institutions."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I suggest that we also delete the word "reasonable" and just say "shall exercise supervision and regulation . . ."

THE PRESIDENT. Does the committee accept?

MR. GUINGONA. Madam President, as we explained earlier, the reason for the inclusion of the word "reasonable" is to erase the concept that has been expressed in an *obiter dictum* in the case of *PACU vs. Secretary of Education and the Board of Textbooks,* where the Supreme Court said that it is enough to point out that local educators and writers think the Constitution provides for control of education by the State. The Solicitor General cited many authorities to show that the power to regulate means the power to control. I am quoting from the proceedings of the Constitutional Commission. The Court went on to say: "The State control of private education was intended by the Organic Law . . ."

MR. MONSOD. Madam President, I withdraw my proposal.

MR. GUINGONA. I thank the Commissioner, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I would like to ask for a reconsideration of the approval or the acceptance by the committee of the deletion of the last phrase "shall establish, maintain and support a complete and adequate system of education relevant to the needs of the people and society" on page 2, lines 23 to 25. The reason being given is that it is a surplusage or it is unnecessary. I move for its reconsideration and in lieu of the deletion, for its transfer as subsection (a) of Section 2. So Section 2 (a) would read: "THE STATE SHALL ESTABLISH, MAINTAIN AND SUPPORT A COMPLETE AND ADEQUATE SYSTEM OF EDUCATION RELEVANT TO THE NEEDS OF THE PEOPLE AND SOCIETY."

MR. VILLACORTA. The committee accepts the amendment, Madam President.

MR. DAVIDE. On the same section, I would like to change the phrase "in an integrated system of Philippine education" to simply "IN THE EDUCATIONAL SYSTEM, so it would read: "The State recognizes THE COMPLEMENTARY ROLES OF public and private educational institutions IN THE EDUCATIONAL SYSTEM."

MR. GUINGONA. Madam President, the word "integrated" is just a recopy of what actually appears in Section 8, Article XV of the 1973 Constitution, where it speaks of the establishment of a complete, adequate and integrated system of education. Although we have no serious objection to the amendment, perhaps it will be better to just leave the word "integrated" there.

MR. DAVIDE. Madam President, that is already carried out by the last clause which has been transferred to another section.

MR. GUINGONA. Did the Commissioner include "integrated"? Our original wording is only "complete and adequate." Does the text that the Commissioner proposed to transfer include "integrated," Madam President?

MR. DAVIDE. I would propose so. Yes, it should be "a complete, INTEGRATED and adequate system of education."

MR. GUINGONA. I think the wording is "complete, adequate and INTEGRATED."

MR. VILLACORTA. We accept, Madam President. So the first sentence will read: "The State recognizes THE COMPLEMENTARY ROLES OF public and private educational institutions IN THE EDUCATIONAL SYSTEM."

Madam President, may we ask for a vote.

THE PRESIDENT. Is there any objection to the first sentence of Section 4?

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Can we just delete the word "education" because it is redundant? The sentence says: "The State recognizes THE COMPLEMENTARY ROLES OF private and public institutions IN THE EDUCATIONAL SYSTEM." We do not have to repeat the word "educational" twice.

THE PRESIDENT. It is a matter of style. Does the committee agree?

MR. VILLACORTA. Yes, it is just a matter of style. We accept, Madam President.

VOTING

THE PRESIDENT. The committee will please take note of the matter.

As many as are in favor of the first paragraph of Section 4 as read by the honorable chairman, with the corresponding amendments, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 33 votes in favor and none against; the opening paragraph of Section 4 is approved.

The chairman is recognized.

MR. VILLACORTA. Madam President, just for clarification. We will vote on the amendment of Commissioner Davide to transpose the deleted clause of the first paragraph to Section 2 as Section 2 (a).

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

MR. ROMULO. Madam President, I ask that Commissioner Davide be recognized for an additional paragraph on Section 4.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. This proposal will affect educational institutions organized by religious orders or mission boards. However, they had been already affected by the Regalado proposal, so I am constrained to withdraw this particular proposal. I wanted to require ownership to the extent of 60 *per centum* by Filipino citizens.

MR. VILLACORTA. Madam President, may we vote on lines 1 to 7, page 3.

THE PRESIDENT. Will the Commissioner please read lines 1 to 7 on page 3.

MR. VILLACORTA. Lines 1 to 7 read: "No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other temporary residents, as may be provided by law."

MR. DAVIDE. Madam President.

THE PRESIDENT. Are there any proposed amendments?

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. On line 6, before the word "temporary," add the word "FOREIGN," so that it would read: "for other FOREIGN temporary residents." And instead of the phrase "as may be" change it to "UNLESS OTHERWISE," so the lines would now read: "and their dependents and for other FOREIGN temporary residents, UNLESS OTHERWISE provided by law."

MR. VILLACORTA. The amendments are accepted, Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I ask the committee a question which may not necessitate an amendment? What is the idea behind the clause "no group of aliens shall comprise more than one-third of the enrolment in any school"?

MR. VILLACORTA. By the way, this is a reproduction of the 1973 Constitution.

BISHOP BACANI. Yes, I understand it is.

MR. VILLACORTA. But the idea here is to prohibit schools established mainly for foreigners except those that are meant for children of diplomatic personnel and other foreign temporary residents.

BISHOP BACANI. Yes. Would this same purpose not be safeguarded if we say: "No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than ONE-HALF of the enrolment in any school"?

MR. VILLACORTA. So the Commissioner is proposing to substitute "one-third" with "ONE-HALF."

BISHOP BACANI. Yes, "ONE-HALF." I suggest that as an amendment.

MR. VILLACORTA. The committee accepts the amendment.

BISHOP BACANI. I thank the Commissioner very much, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I would like to object to an increase of the configuration of aliens in any educational institution from the one-third to one-half. The evil sought to be remedied by this particular provision in the 1973 Constitution was not just an imagined evil. It was a real evil, especially that at the time the 1973 Constitution was adopted, there were many educational institutions solely for aliens, especially the Chinese. That was the reason the enrolment of aliens was limited to one-third because of the possible danger that the members, the students or the pupils of a particular educational institution who are Filipinos might be unduly influenced by foreign or alien interests, and they would easily become the minority group or second-class citizens. Also, the one-third requirement as a maximum was imposed by the 1973 Constitution because we do not want to see Filipino youths and children being the minority in any given educational institution, especially now that we return to the old concept of 60-40 ratio in educational institutions. I hope the committee will reconsider the acceptance of the proposal.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, I am willing to withdraw my amendment if that is the reason.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. May I ask the committee whether the paragraph mentioned on line 4 refers to the entire subsection (a)? I ask because in the draft that I have, line 1 is not a new paragraph. Or is this supposed to be a new paragraph beginning with the words "No educational institution"?

MR. VILLACORTA. We shall make it a new paragraph.

REV. RIGOS. So that this paragraph refers to lines 1 to 5.

MR. VILLACORTA. No, lines 1 to 4.

REV. RIGOS. All right. The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and for other foreign temporary residents, unless otherwise provided by law. Does our committee have a record of the schools under this category?

MR. VILLACORTA. Diplomatic schools?

REV. RIGOS. Yes, Madam President.

MR. VILLACORTA. The only school established for children of diplomatic personnel is the International School (IS). I understand that some embassies have schools within their grounds. But then, they are beyond the jurisdiction of the Philippines because they are within the vicinity of the embassies. Some of these are the Indonesian School and the German School.

REV. RIGOS. The committee list does not include the Brent School in Baguio City.

MR. VILLACORTA. The Brent School is more for the foreign temporary residents.

REV. RIGOS. So does it also fall under this provision?

MR. VILLACORTA. Under this exception, also Faith Academy which is established for the children of pastors.

REV. RIGOS. I thought Brent School falls under the educational institution established by mission boards in the previous paragraph.

MR. VILLACORTA. Let me confer with the other members of the committee.

REV. RIGOS. Thank you.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. This is a question addressed to Commissioner Villacorta. First of all, an observation. I do not think that we should try to determine which schools are covered by this provision because that depends on a factual situation. Whether or not Brent School is covered will depend on the factual situation of that school. Secondly, the chairman said that the provisions of this paragraph, in answer to the question of Commissioner Rigos, have reference only to the provisions starting with line 1. In other words, he is changing the provisions of the 1973 Constitution. Under the 1973 Constitution, the exceptions covered ownership, administration and student population. Whereas, it is the chairman's intention to exempt them only from the requirements of student population.

MR. VILLACORTA. We get the Commissioner's point, Madam President. I think what he is saying is that in the original 1973 provision, the exemption also applies to ownership.

FR. BERNAS. Yes, and also administration.

MR. VILLACORTA. The Commissioner's point is well-taken, Madam President. This paragraph actually refers to subsection (a).

FR. BERNAS. Subsection (a).

MR. VILLACORTA. Would the appropriate terminology be "subsection" rather than "paragraph"?

FR. BERNAS. If we have split subsection (a) into more than one paragraph, then perhaps subsection (a) would be better.

MR. VILLACORTA. I ask because the 1973 provision says "subsection," not "paragraph." So probably the better wording is "subsection."

MR. JAMIR. Yes, I agree.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. I wish to call the attention of the body to lines 5 and 6 with respect to the provisions of this sentence regarding the establishment of schools for foreign diplomatic personnel and their dependents. If we leave the phrase "UNLESS OTHERWISE provided by law" at the end, it will appear that Congress can enact measures that would prohibit the establishment of schools for foreign diplomatic personnel. Therefore, I propose that the phrase "UNLESS OTHERWISE provided by law" be transposed to line 6 after the word "and" so that the sentence will read: "The provisions of this paragraph shall not apply to schools established for foreign diplomatic personnel and their dependents and, UNLESS OTHERWISE provided by law, for other FOREIGN temporary residents."

MR. VILLACORTA. Just a clarification, Madam President. Is the Honorable Bengzon saying that Congress may prohibit schools established only for foreign temporary residents?

MR. BENGZON. It is the other way around; it should not.

MR. VILLACORTA. It should not?

MR. BENGZON. Yes. The way it is worded now, Congress can prohibit the establishment of schools which would be strictly for diplomatic personnel.

MR. VILLACORTA. But the Commissioner is saying that if we place "UNLESS OTHERWISE provided by law" before "for other FOREIGN temporary residents," then that means that Congress may prohibit the establishment of schools for foreign temporary residents. Is that right, Madam President?

MR. BENGZON. Yes, it may for other foreign temporary residents.

MR. VILLACORTA. It may.

MR. BENGZON. I do not want Congress to have the power to prohibit the establishment of schools for foreign diplomatic personnel because that is a reality. That is a part of life.

MR. VILLACORTA. Actually, the original wording of the 1973 Constitution is what the Commissioner is proposing now.

MR. BENGZON. Yes, I am going back to that.

MR. VILLACORTA. May I just know, for information, what was the intention of the 1971 Constitutional Convention with respect to this matter?

MR. BENGZON. The intention of the 1971 Constitutional Convention with respect to this matter is that it did not want Congress to prohibit the establishment of schools for foreign diplomatic personnel.

MR. VILLACORTA. But the Commissioner was open to prohibiting the establishment of schools for temporary residents.

MR. BENGZON. For other temporary residents, because we have foreign diplomats, and that is because of our relations with other nations.

MR. VILLACORTA. With that clarification, Madam President, we accept the amendment of Commissioner Bengzon.

MR. BENGZON. I thank the Commissioner, Madam President.

SR. TAN. Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. This is just a clarification of line 5 which states: "schools established for foreign diplomatic personnel." Will these personnel include personnel from the World Bank and the IMF?

MR. VILLACORTA. Yes, Madam President.

SR. TAN. Will they include personnel from the Bank of America and Citibank?

MR. VILLACORTA. No, Madam President, because these banks are not diplomatic institutions.

SR. TAN. Yes. So this will bring about a very big change in IS. Would this mean that Filipinos who live here, like Sharon Cuneta, may not study at IS? How about Kris Aquino? She used to study at IS.

MR. VILLACORTA. It does not mean that, Madam President, because there is no provision prohibiting nationals or local citizens from enrolling in these schools.

SR. TAN. I thank the Commissioner, Madam President.

MR. VILLACORTA. I also thank Commissioner Tan.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Just for a clarification which may obviate the need of an amendment on page 3, lines 3 and 4 which state: "no group of aliens shall comprise more than one-third of the enrolment in any school." Is it understood that the phrase "any school" refers to a particular college, a course or a discipline in an educational institution? I ask because if it is a university consisting of several colleges and we take the overall enrolment as the basis of the one-third it will become absurd. For instance, if a university has, let us say, 20,000 enrolment but it has a medical school which can only accommodate 2,000, one-third of 20,000 will be more or less 7,000 students. So is it understood that the word "school" in the phrase "and no group of aliens shall comprise more than one-third of the enrolment in any school" refers not to the entire educational institution but to the particular college course or discipline offered therein?

MR. VILLACORTA. Madam President, "school" refers to the entire institution, because there was a time when in our Philippine Studies program there was only one student who was from the People's Republic of China. So that should not disqualify him. This does not apply to a course of study but to the entire educational institution.

MR. REGALADO. Therefore, does it mean to say that if a university has a 50,000 overall enrolment and it has a college of medicine which can accommodate only about a thousand students, foreigners can completely displace Filipinos in that college of medicine because they will be less than one-third of the entire enrolment?

MR. GUINGONA. Madam President, legislation will provide for that and the Ministry of Education, Culture and Sports can provide for quotas as it does now. So I think this is not a matter to be considered; it is a detail that should be left to the legislature and to the ministry to implement.

MR. REGALADO. No, it is not a question of implementation; it is a question of intent. What is the intent of this one-third of the total overall enrolment?

MR. GUINGONA. Our chairman, Commissioner Villacorta, has already stated that the word "school" refers to the entire school, because it is very hard to go on an institute-to-institute basis or offerings-to-offerings basis.

MR. REGALADO. As a matter of fact, Madam President, that was one of the questions in one of the medical schools in Manila where, without the intervention of the MECS, the foreigners were about to displace completely all the students in the medical school because of the one-third requirement.

MR. GUINGONA. Yes, because even the schools through their admission requirement can refuse foreigners.

MR. REGALADO. But it is good if they want to.

MR. GUINGONA. Yes, but they are subject to regulation and supervision by the ministry, and the ministry has, in fact, required it.

MR. REGALADO. So it is understood, however, that this provision is not intended to completely displace Filipino students taking certain particular courses or any discipline in that particular school?

MR. GUINGONA. Definitely, yes.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, may I put a question to the committee concerning the last sentence of this subsection on education. I think it is a matter of common knowledge that there are about 2,000 students from Thailand in the Philippines and about, at the peak, I think some years ago, 3,000 students from Iran. Some of our policy-makers looked differently at this phenomenon. Some of them said that we ought to aspire to a role as the new Athens of Asia. Others think that by opening our doors to the influx of foreign students we are, in effect, depriving our own students in the Philippines of seats that should go to them as a matter of top priority.

I do not think this issue is settled in this paragraph. That is to say, we do not define a policy whether we are going to be the Athens of Asia or we shall take a more inward view of our own educational seats for our own people.

But I also wanted to raise another point, that of reciprocity. In many parts of the world today, because of the Filipino exodus to other countries, members of the Filipino community, such as in Geneva, take the initiative of organizing school for temporary residents from the Philippines because workers very often do fall under this classification. Do I take it, without having to indicate reciprocity here, that when Congress considers an enabling law, it will take reciprocity into account?

MR. VILLACORTA. Yes, Madam President.

MR. OPLE. I thank the Commissioner very much.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Just a question to the committee.

Right now, Madam President, there are schools in Makati offering courses in Tagalog, Cebuano and Ilocano and in addition to that, they offer foreign languages like Spanish, French and others. I understand that a great majority of the students in these schools are foreigners who want to learn Tagalog, Ilocano and Cebuano. Would these particular schools come under this paragraph, specifically lines 1 to 5, so that if the foreign students enrolled in these schools would be more than one-third, these schools would have to close down? I ask because there are less Filipinos who want to learn Spanish, French and other languages while there are more foreigners, particularly the Japanese, who want to study Tagalog, Cebuano and Ilocano.

MR. GUINGONA. I think, Madam President, that it should be determined whether the school is giving these courses with or without credit, because if these courses are without credit and are not subject to the supervision and regulation of the Ministry of Education, Culture and Sports, then these would not fall under the concept that we have on educational institutions.

MR. BENGZON. What if it is a school for business, because the Commissioner says "without credit"?

MR. GUINGONA. If the course or subject offered is not recognized by the Ministry of Education, Culture and Sports, it would not be given recognition in any educational institution here. So that anyone who finishes a course in Spanish in these schools cannot claim credit for this in order to substitute for the six or 12 units of Spanish required under the curriculum.

MR. BENGZON. But those schools are accredited by the Ministry of Education.

MR. GUINGONA. In that case, they would probably fall under this provision.

MR. BENGZON. When I say "accredited," the school has the permit.

MR. GUINGONA. Yes. So it is an educational institution which is subject to the supervision and regulation of the Ministry of Education, Culture and Sports and, therefore, falls within the concept of the words "educational institution" as contained in this provision.

MR. BENGZON. But suppose the grades obtained by the students in that school are not subject to accreditation by the other schools; in other words, the permit to operate given by the Ministry of Education does not give that particular kind of credit that the Commissioner is talking about, such that the students of that school will not be able to use the grades they get as a credit if they enroll in another school like La Salle?

MR. GUINGONA. I am not speaking for the committee, but my personal view is this: As long as the school falls under the supervision and the regulation of the MECS and has obtained permit or recognition, the course for which the permit or recognition has been granted is covered under this provision.

MR. BENGZON. May we have the view of the committee, Madam President. As I understand it, no particular institution, company or corporation can open a school unless such company or corporation gets a permit from the Ministry of Education.

MR. VILLACORTA. Just a question, Madam President. Is this school the Commissioner is referring to an existing school, or is it a hypothetical school?

MR. BENGZON. No, it is an existing school. It is in Paseo de Roxas, Makati. It is an international language school.

MR. VILLACORTA. Is it the Centro Hispanico?

MR. BENGZON. That is one of them.

MR. VILLACORTA. These schools do not only offer local languages but also Spanish, French, Chinese, et cetera.

MR. BENGZON. That is right, Madam President.

MR. VILLACORTA. And I know for a fact that a lot of Filipinos enroll in these language courses. So I wonder whether the majority of the studentry of these schools are foreigners or not.

MR. BENGZON. But there are several of these, Madam President, and I happen to know that in one smaller school, there are more foreigners than Filipinos enrolled to learn foreign languages. So my only question is: Must these schools seek permission from the Ministry of Education?

MR. VILLACORTA. I am not sure about that because they are not degree-granting schools.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Yes. Madam President, I think the jurisdiction of the MECS is only on credited units. But if a school offers a professional development program – training or nondegree programs – it does not fall under the jurisdiction of the ministry.

MR. BENGZON. So with that distinction and under that circumstance, this kind of schools will not fall under this particular paragraph.

MR. VILLACORTA. Yes, the Commissioner is correct.

MR. BENGZON. I thank the Commissioner, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. May I address a query to the committee? In line with the question of Commissioner Tan, I understand from the committee that these schools established primarily for dependents of foreign diplomatic personnel and other foreign temporary residents accept Filipino students. I just want to find out what is the rationale for this, because adverting to International School, Incorporated, in relation to P.D. No. 732, the decree says that the school:

> . . . shall determine its own curriculum and teach whatever language or languages it may deem proper and determine the amount of fees and assessments which may be reasonably imposed upon its students, to maintain or conform to the school standard of education.

It further states that it shall:

> . . . employ its own teaching and management personnel selected by it either locally or abroad, from Philippines or other nationalities, such personnel being exempt from otherwise applicable laws or regulations attending their employment, except laws that have been or will be enacted for the protection of employees.

My point, Madam President, is this: If we allow Filipinos to enroll in these schools, they will not be imbued with what we are talking about here in the Constitution because the schools' curriculum is different. They can even establish their own calendar of studies and work schedule to maximize their efficiency and promote the education of students. Why is it that we allow Filipino students to enroll in schools like the International School, Incorporated?

MR. VILLACORTA. The committee is open to amendments from the Commissioner in order to provide for that problem he pointed out. We acknowledge that it is a problem.

MS. ROSARIO BRAID. Also, Madam President, many of the students who enroll in these schools are children of Filipino diplomats assigned to different places all over the world so that majority of them are assigned to Asian Development Bank and United Nations agencies. Of course, a few are children who can afford, but many of them are sent to these schools because their parents usually move around.

MR. MAAMBONG. I have no problem with those children, Madam President, but I am talking specifically of children of Filipinos in the Philippines.

In Cebu, we have a branch of International School, Incorporated. Personally, I have no quarrel in allowing Filipinos to enroll in these schools. It has become some sort of a status symbol. The fees are very high; only very few rich can really enroll their children there.

I am just asking the committee the rationale. Maybe there is a good reason for this.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. Madam President, we have agreed that these schools are primarily for children of foreign diplomats. As far as this report is concerned, we have no statement saying that Filipinos cannot enroll in these schools. The point is, perhaps, since they are Filipinos and our intent is to provide them with Philippine education, my thinking is that this provision does not preclude the Congress or the Ministry of Education,for that matter, to set certain regulations for Filipino students who may wish to enroll in said schools. For example, if some Filipinos wish to study in these schools and because they are Filipino citizens, there may be some requirements added to whatever they are getting from these schools, such as that they may have to be taught Philippine history which can be taught in those schools, among other things.

So my thinking is that the statement, as it is now, does not preclude Congress or the Ministry of Education to set requirements for Filipino citizens who will study in these schools so that they will be able to receive Philippine education as well.

MR. MAAMBONG. Actually, Madam President, what I am only asking is the rationale of it all. Is it all right, as far as the committee is concerned, to allow Filipino citizens to enroll in these schools? If the committee says so, I have no quarrel with that. I just want to find out the rationale of the whole thing.

MR. GUINGONA. Madam President, I agree with the statement of Commissioner Gascon. But in the same way, I do not think we should prohibit parents to send their children to schools abroad to study where, of course, the curricula will be different. I do not see any reason they should be prohibited from sending them here, because otherwise, the logical thing to do is to prohibit the students from going abroad because they will not be able to learn Filipino culture.

MR. MAAMBONG. In other words, is it the thinking of the committee that this is justifiable? Does it mean the whole thing is all right? Is that the thinking of the committee, Madam President?

MR. VILLACORTA. I do not know whether or not I express the position of the committee, but my own thinking on this matter is that we appreciate the Commissioner's having raised the question because a lot of the children of the elite, political and economic elite, are in these international schools for status symbol and all that. And there seems to be something wrong with that kind of practice where the children of the elite go to international schools which do not have the same curricula as the Philippine schools.

THE PRESIDENT. In fact, Mr. Chairman, if I may interrupt, that matter is not involved in this section. That is included in the Constitution. This particular section raises the question of whether or not we allow the establishment of the schools exclusively for aliens. So I believe we are now ready to vote.

MR. GASCON. Yes, Madam President.

MR. MAAMBONG. Thank you, Madam President.

THE PRESIDENT. Will the chairman please read the amendments that have been accepted by the committee.

MR. VILLACORTA. Madam President, the last two paragraphs on page 3, starting with line 1, read: "No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrolment in any school."

THE PRESIDENT. How about the Bacani amendment? Was that withdrawn?

MR. VILLACORTA. That was withdrawn, Madam President.

THE PRESIDENT. All right; so we stay with "one-third."

MR. VILLACORTA. The other paragraph reads: "The provisions of this SUBSECTION shall not apply to schools established for foreign diplomatic personnel and their dependents and, UNLESS OTHERWISE PROVIDED BY LAW, for other FOREIGN temporary residents."

VOTING

THE PRESIDENT. As many as are in favor of this particular paragraph, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 32 votes in favor, none against and 1 abstention; the paragraph is approved.

REV. RIGOS. Madam President, may we clarify whether the wording is "SUBSECTION" or "paragraph"?

MR. VILLACORTA. It is "SUBSECTION," Madam President.

REV. RIGOS. Does that refer only to that paragraph beginning on line one?

MR. VILLACORTA. It refers as well to the preceding paragraph regarding ownership and administration.

REV. RIGOS. I thank the Commissioner.

SUSPENSION OF SESSION

MR. ROMULO. May I ask for a suspension of the session.

THE PRESIDENT. The session is suspended until two-thirty in the afternoon.

It was 12:49 p.m.

RESUMPTION OF SESSION

At 2:55 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

We ask the chairman and the members of the committee to please occupy the front seats.

Can we now proceed to Section 4 (b), page 3, lines 8 to 10?

Commissioner Villacorta is recognized.

MR. VILLACORTA. Yes, Madam President. The formulated subsection reads as follows: "The State shall encourage the establishment of educational foundations and cooperatively-owned educational institutions."

THE PRESIDENT. Are there any amendments to this particular subsection?

MR. GUINGONA. Madam President, may I just add that under RA 6055, otherwise known as the Educational Foundation Act, these exemptions are already granted, but we have included these in the Constitution because the Educational Foundation Act, being a statute, is subject to repeal.

THE PRESIDENT. All right. Is the body ready to vote on this subsection (b)?

MR. VILLACORTA. Madam President, if I am not mistaken Commissioner Rosario Braid has an amendment to this subsection but she is not around. Could we defer action?

MR. GUINGONA. Commissioner Rosario Braid is here.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Madam President, we feel that the 1973 Constitution has encouraged the organization of educational foundations, and a subsequent law has been passed encouraging educational institutions to become nonstock educational foundations. We also know that certain institutions, like the Centro Escolar University, have converted themselves into cooperatives in view of the trend now of broadened ownership. We feel that this is perhaps one structure that could be adopted by many proprietary institutions, particularly those that encounter financial difficulties. So in view of this, we feel we should constitutionalize this provision. I think this structure would enable foundations to be exempt from all taxes, and should they decide not to operate, then I think the facilities and resources could be given back to the State or to other selected institutions.

MR. VILLACORTA. Does Commissioner Rosario Braid have an amendment to this provision?

MS. ROSARIO BRAID. Yes, I have an amendment, Madam President. Earlier, we passed this omnibus provision on nonformal education, and majority of the committee members have suggested an amendment – this amendment is found in the handout given to everybody last Saturday – which reads: "The State shall STRENGTHEN VOLUNTARY COMMUNITY LEARNING CENTERS INCLUDING PRESCHOOLS AND FACILITATE DEVELOPMENT OF INNOVATIVE APPROACHES BASED ON THE UNIQUE CAPABILITIES OF THE COMMUNITY AND THE LEARNERS."

Let me explain briefly what this means. This means beyond just encouraging the organization of independent learning systems. We would like to strengthen already existing learning centers particularly in the community. There are experiments going on now in La Salle. They have the pull-out system where students who are more creative and more advanced than others are pulled out and given special instructions. Likewise in St. Scholastica's College, they also have special programs for those with unique capabilities. In other schools, they have programs for the slow learners. There is also another special program for parents' get-together and they organize schools particularly the preschool level where they decide on the curriculum to be offered to the children. We feel, however, that most of these preschools are of the elitist kind and that we have not been able to move towards really providing the majority of our population, especially in the rural communities, with preschool instruction which could be done if we can encourage this kind of development. INNOTECH, through its DELSILIFE and other experiments in community learning centers, has given us models where the parents and other community learning members group together and provide a design, a curriculum suited for the community.

There are many models in the different parts of the world that support what we call folk education and we feel that this should be encouraged in view of our emphasis on giving local governments the opportunity to develop their own creative facilities and in view of the public hearings we have heard where some of the cultural communities would like to go beyond the *madrasah* schools to have their own type of learning systems. So, this is the rationale behind this provision.

MR. GUINGONA. Madam President, this is a reaction from the committee. I was thinking if Commissioner Rosario Braid would be willing to present that as a separate section so that we could already vote on Section 4 (b). In other words, that would be a complementary section to Section 4 (b).

MR. SARMIENTO. Madam President, may we support the request of Commissioner Guingona since we are actually discussing educational foundations and cooperatively owned educational institutions. Commissioner Rosario Braid is proposing another amendment, the establishment of preschools. So may we suggest that we defer consideration of her amendment and tackle first these educational foundations for order and clarity?

MS. ROSARIO BRAID. The amendment is acceptable.

THE PRESIDENT. Let us hear first from Commissioner Nolledo.

MR. NOLLEDO. Madam President, I would like to ask Commissioner Rosario Braid some questions with respect to Section 4 (b) of the current section.

THE PRESIDENT. Yes, but we would like to confine ourselves first. We can defer that.

MR. NOLLEDO. I am not talking of the preschool because I know that Commissioner Rosario Braid is instrumental in increasing the schools.

THE PRESIDENT. Excuse me, Commissioner Nolledo, we will defer that and we will first concentrate on lines 8, 9 and 10 and then afterwards, we will go to the proposed amendment of Commissioner Rosario Braid.

MR. NOLLEDO. Madam President, my questions are centered on lines 8 to 10.

THE PRESIDENT. Lines 8 to 10 on educational foundations?

MR. NOLLEDO. Yes, Madam President.

THE PRESIDENT. The Commissioner may proceed. May I remind everybody, including the members of the committee, that we are limiting the time to three minutes per speaker unless there is a motion to extend the time.

Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

On lines 8 to 10, page 3, the following provision appears: "The State shall encourage the establishment of educational foundations and cooperatively-owned educational institutions." This is an entirely new provision and with emphasis on the word "encourage." Commissioner Rosario Braid must be talking of incentives from the State.

MS. ROSARIO BRAID. Yes. This would mean, of course, exemption from all taxes which would mean equipment, et cetera.

MR. NOLLEDO. Am I right if I say subsidy from the government?

MS. ROSARIO BRAID. Yes. They will get priority over proprietary institutions.

MR. NOLLEDO. If my memory serves me right, I think there is an existing law known as RA 6055 which states that proprietary educational institutions that convert themselves into educational foundations shall be fully tax exempt.

With respect to cooperatives, who may compose the cooperatives? Can parents and teachers form the cooperatives in establishing the so-called cooperatively owned educational institution?

MS. ROSARIO BRAID. Yes. In the Centro Escolar University model, the cooperative started with the faculty, nonteaching and administrative staff, but does not preclude opening it to parents and other interested members of the community.

MR. NOLLEDO. Is Commissioner Rosario Braid aware that a group of parents from an elitist village formed a cooperative in order to raise the standard of education of their children and they also agreed to form an institution composed of parents and teachers as the incorporators? They also agreed that all their children will be sent to this school.

MS. ROSARIO BRAID. Yes. As a matter of fact that was the school I was referring to when I was explaining certain innovative structures that are being done now.

MR. NOLLEDO. In this case, considering that the group consisted of members of the family who are rich, will the government still grant incentive in the form of tax exemption, considering that the composition is elitist? Does Commissioner Rosario Braid think that under this provision the government should still grant tax exemption and other incentives?

MS. ROSARIO BRAID. Yes. They are nonprofit to start with. And so being nonprofit, they are entitled to exemptions. It is very clear that the intent of this provision is to move toward the community, especially to the more rural or to the less elitist regions, so that we can democratize education. I hope my amendment will follow this provision.

MR. NOLLEDO. Thank you, Madam President.

MR. GUINGONA. Madam President, without disputing the statement of Commissioner Rosario Braid about the matter of subsidy, may I invite the attention of the Commissioners to the thrust which was underscored by Commissioner Monsod when he said that principally, subsidy should be given to students, and this is something that we have already approved.

MR. RAMA. Madam President, the body is ready to vote on subsection (b).

MR. SARMIENTO. Madam President, before we vote, may I just address one question to the committee?

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Regarding these foundations, Commissioner Rosario Braid stated that these foundations are given tax exemptions by the government. Am I correct?

MS. ROSARIO BRAID. Yes. It is provided in RA 6055.

MR. SARMIENTO. From 1980 to 1984, 400 so-called foundations were registered with the SEC, most of which are the Montessori schools that have mushroomed throughout the metropolitan area. Considering the mushrooming of these foundations with tax exemptions, does the Commissioner think this will be for the good of our country?

MS. ROSARIO BRAID. Yes. I think these foundations are giving quality education and are also serving the needs of the poor.

MR. SARMIENTO. But many of the enrollees of these Montessori schools belong to the middle and upper classes of our society — the rich people. And then, these Montessori schools will be enjoying tax exemptions. Will that be for our benefit?

MS. ROSARIO BRAID. We can accept an amendment with a phrase which says "PARTICULARLY

THOSE THAT CATER TO THE NEEDS OF THE DISADVANTAGED," although we would put on record that the priority is the less privileged communities. As what the chairman of the Committee on Education has mentioned, we will encourage subsidies to the parents of the students of these institutions.

MR. SARMIENTO. I have another question. When we speak of educational foundations, will these cover foreign foundations?

MS. ROSARIO BRAID. No. We have these omnibus provisions which indicate that we would like to have a nationalist education; we would like to have educational foundations whose ownership is Filipino. And so, these foundations should be owned and managed by Filipino citizens.

MR. SARMIENTO. Thank you.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. May I just be more specific about questions asked by the other Commissioners regarding foundations. Republic Act 6055 says that the foundations will be exempt from the payment of all taxes, import duties, assessments and other charges imposed by the government, and all income derived from property, real or personal, used exclusively for their educational activities. With this in mind, are these exemptions contemplated in this section that we are talking about?

MS. ROSARIO BRAID. Yes. We should also know that under the provisions on educational foundations, an owner of a foundation is expected to have a large percentage of the income plowed into the instruction and the improvement of the curriculum, faculty, rather than for other uses. In other words, it does not totally go to the board of trustees. So there are limitations.

MR. MAAMBONG. I am more concerned about this because I notice from this RA 6055 that the only benefit to the government is upon the dissolution of the foundation because it says:

> If for any reason its corporate existence ceases, all its assets shall escheat to the State, subject to its liabilities to third persons.

So, as far as the committee is concerned, all these exemptions I am talking about under RA 6055 will be operative in the interpretation of this section we are talking about.

MS. ROSARIO BRAID. Yes. I think the other clause also stipulates that the board of such foundation can select another foundation or an appropriate agency related to the goals of the foundation, which could be the beneficiary of the resources once it is dissolved.

MR. MAAMBONG. Thank you.

MR. GASCON. As far as the benefit from educational foundation is concerned, if we look at it from the point of view on the issue of education, the assets do not accrue to the government, but accrue directly to the people because of the education service given to the people at low cost. What we would really like to encourage is development of educational foundations which are nonprofit and which give impeccable education to those who need it most.

MR. GUINGONA. Madam President, my understanding is that there are educational foundations which are established in accordance with the provisions of RA 6055, and are, therefore, exempt from taxes as provided in Section 8 thereof. However, there are educational foundations which do not comply with the requirements of RA 6055, and, therefore, are not exempt. I suppose the question of Commissioner Maambong refers to educational foundations which are established under RA 6055.

Madam President, I would like to underscore what Commissioner Rosario Braid mentioned and which we already underscored before. I think there should be concern on the part of the legislature to see to it that a substantial amount of the surplus goes to the benefit of the students, faculty members and nonacademic personnel — that is to say, the rank and file — and should not go to the officials, beginning from the dean up to the president and the members of the board of trustees.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I introduce an amendment to this particular subsection?

Since the committee said that the purpose of these educational foundations is to respond to the needs of the poor, will the committee accept an amendment which will read: "The State shall encourage the establishment of educational foundations FOR THE UNDERPRIVILEGED and cooperatively owned educational institutions . . ."?

MS. ROSARIO BRAID. It is accepted. I wonder if the Commissioner can use the concept of democratization such as: "The State shall encourage the establishment of educational foundations and cooperatively owned educational institutions . . . TO ATTAIN THE OBJECTIVES OF DEMOCRATIZATION."

MR. SARMIENTO. When we speak of "cooperatively owned educational institutions," I think the thrust is to democratize ownership, to broaden ownership, so that will be unnecessary.

MS. ROSARIO BRAID. So, we accept the Commissioner's amendment. It will be placed after the word "foundations" and the concept is for the underprivileged.

MR. SARMIENTO. Thank you.

MR. MAAMBONG. Madam President, may I get a clarification of that.

When we say, "educational foundations for the underprivileged," does it mean that students who will enroll in these foundations have to prove that they are underprivileged? I think that is a very limiting provision. Thus, I would like to get a clarification from the committee on that matter, because it could be subjected to so many interpretations.

MR. GUINGONA. I think that the one who should really explain it is the proponent. But the way I understood it, it is like the University of the Philippines which is established principally for the underprivileged. In other words, even a State university can have rich people but principally, it is open for the underprivileged as against some schools which Commissioner Sarmiento has mentioned. Those schools are almost exclusively open for the higher income group. But, of course, Commissioner Sarmiento would be in a better position to explain his proposal.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. I suggested this amendment, Madam President, because we have at present a trend. As I said a while ago, from 1980 to 1984, we have had 400 so-called foundations registered with the Securities and Exchange Commission, and these are the Montessori schools catering to the rich, to the middle or upper classes of our society. The poor are deprived of this preschool education. So if we state in this Constitution "establishment of educational foundations," then this would mean that we are encouraging establishment of foundations that cater only to the rich. Since our thrust is to have a Constitution that is pro-people and we have to democratize educational opportunities, we should specify the following amendment: "the establishment of educational foundations FOR THE UNDERPRIVILEGED," with special emphasis on the word "UNDERPRIVILEGED."

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. I would request a vote on the amendment "FOR THE UNDERPRIVILEGED." Considering what Commissioner Sarmiento has said about the 400 educational foundations, I feel that the term "FOR THE UNDERPRIVILEGED" is a very limiting exception. This could be interpreted in different ways, for example: Will the educational institution be forced to accept a person who claims to be underprivileged or vice versa? We should take a second look at this amendment.

THE PRESIDENT. May the Chair address the question to Commissioner Sarmiento?

MR. SARMIENTO. Madam President.

THE PRESIDENT. With the Commissioner's amendment, is it his intent to prohibit or exclude the establishment of educational foundations as a rule in general, or is it his purpose to stress that the State encourage the establishment of such kind of a foundation?

MR. SARMIENTO. It is only to stress the establishment of such kind of a foundation. Maybe we can have this amended to read: "educational foundations PRINCIPALLY FOR THE UNDERPRIVILEGED." Will that satisfy Commissioner Maambong?

THE PRESIDENT. In other words, educational foundations like the Montessori can still continue to exist and to be established.

MR. SARMIENTO. Yes, Madam President.

THE PRESIDENT. That is the point, Commissioner Maambong.

MR. MAAMBONG. But the phrase is entirely unnecessary because as of the moment, there are 400 institutions, according to Commissioner Sarmiento, and I am sure that most of them are catering to the underprivileged. We do not need that kind of qualifying term.

THE PRESIDENT. Is there any other comment?

MR. GUINGONA. Madam President, I think we should relate this with the exemptions, because if the school is catering to the elitist or to those groups who can afford to pay high tuition fees, then there should be some proportionate reduction as far as exemptions on taxes, duties, et cetera are concerned.

THE PRESIDENT. Shall we hear from Commissioner Azcuna?

MR. AZCUNA. Thank you, Madam President.

I propose to reword the amendment to read: "PARTICULARLY THOSE FOR THE UNDERPRIVILEGED," so as not to limit it but to give emphasis on the underprivileged. Anyway, it is just an encouragement. Will Commissioner Sarmiento be agreeable to that?

MR. SARMIENTO. It is accepted, Madam President.

THE PRESIDENT. How will the amendment be, Commissioner Azcuna?

MR. AZCUNA. It will read: "shall encourage the establishment of educational foundations PARTICULARLY THOSE FOR THE UNDERPRIVILEGED."

MR. VILLACORTA. The committee accepts the amendment to the amendment, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Just for a clarificatory question. This particular proposal would allow Congress to enact a law, or the President to issue a presidential order allowing the establishment of such a foundation, particularly for the underprivileged. It would necessarily follow that there may be guidelines or restrictions as to who can enroll in said particular institution, meaning to say, that only those who are classified as underprivileged may enroll. Would we not, in effect, impair or delimit the right of a student who may want to enroll in that particular school but cannot because he is not classified as underprivileged?

MS. ROSARIO BRAID. Another way of interpreting this amendment is that this will encourage or give preferential treatment to the poor such that legislation can come up with more specific provisions that will ensure those foundations to give special attention to the disadvantaged. Maryknoll College Foundation, Inc. has students from the less privileged class.

MR. DAVIDE. Yes.

MS. ROSARIO BRAID. Likewise, Montessori being a foundation is also forced to cater to the poor.

MR. DAVIDE. Even without the limitation on Congress to encourage the establishment of foundations to serve the underprivileged, this particular proposal would, in effect, result in class legislation in the sense that in the future, foundations allowed to establish particularly for the underprivileged must admit only students belonging to that particular class because that is already the limitation provided for. But if we do not provide a qualification, it is certain that the State must encourage these foundations. So, the protection allowed or the encouragement granted would, in effect, restrict.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas, is it on the same point?

FR. BERNAS. Yes, Madam President, it is on the same point. I have only one question. What is the central purpose of this provision? Is it to encourage the establishment of nonprofit educational institutions?

MS. ROSARIO BRAID. Yes.

FR. BERNAS. Is that the principal purpose?

MS. ROSARIO BRAID. Yes, and the other purpose is to provide alternative structures for proprietary institutions. In other words, these institutions could convert themselves into cooperatives or foundations, especially those that are financially distressed. Hence, this is an alternative.

FR. BERNAS. But the central idea is to discourage profit-making educational institutions, is it not?

MS. ROSARIO BRAID. Yes. The Commissioner is right there.

FR. BERNAS. If that is the central idea, why does it not appear in the text at all? We assume that if we make it a foundation or a cooperatively owned educational institution, it will be nonprofit.

So, why should we not just say: "The State shall encourage the establishment of NON-PROFIT educational institutions"? Whether it is a foundation or a cooperatively owned institution or what have you, it should be nonprofit.

MS. ROSARIO BRAID. We would like to stress that there are other structures, but the possible structure is the cooperatives, where we have the teachers and the parents as the coowners. So this could be an alternative to nonprofit educational institutions. Moreover, there are many types of nonprofit institutions.

FR. BERNAS. Precisely, that is why I would propose a substitute provision, an amendment by substitution, which will simply say: "The State shall encourage the establishment of NON-PROFIT educational institutions." These nonprofit educational institutions can be foundations, cooperatives or any form we like, but the central idea is that they are nonprofit.

MR. GUINGONA. As mentioned by Commissioner Rosario Braid, we do not envision a cooperatively owned educational institution to be nonprofit. The profit will go to the members of the cooperative who may be faculty members or nonacademic personnel. Besides, the Commissioner's idea, which is very acceptable, is precisely provided in the succeeding section which speaks of exemptions for nonstock, nonprofit educational institutions.

However, we feel that if we use that general expression, it might imply that cooperatively owned educational institutions are prohibited from making profit. But as far as the committee is concerned, that is not our concept.

FR. BERNAS. My whole point is that unless we make the idea of nonprofit the central thing, I see no constitutional usefulness for this provision.

MS. ROSARIO BRAID. The usefulness I see here is that we encourage primarily initiative and creativity in terms of coming up with new structures that could even work towards profit as long as the profit is channeled not to individuals but to the common good.

So, these suggest many ways and let us explore creative and innovative ways of restructuring present ownership structures.

FR. BERNAS. I would like to formalize a motion to delete this provision.

MR. RAMA. Madam President, that is an anterior motion.

MR. BENGZON. I second the motion, Madam President.

MR. RAMA. I move that we vote on that anterior motion to delete the said provision.

THE PRESIDENT. There is the Sarmiento amendment which is already accepted by the committee.

MR. RAMA. That is anterior even to the Sarmiento amendment. But now the motion is to delete the whole section.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May we manifest that the motion to delete does not necessarily preclude our inclusion of the word "cooperatives" in the next paragraph, where we talk about "proprietary educational institutions, INCLUDING COOPERATIVES," so that the idea is not completely lost.

VOTING

THE PRESIDENT. The body will first vote on the proposed amendment of Commissioner Bernas to delete the entire Section 4 (b) as contained in the draft.

As many as are in favor of this particular proposed amendment to delete lines 8, 9 and 10, please raise their hand. *(Several Members raised their hand.)*

As many as are against the proposed amendment, please raise their hand. *(Few Members raised their hand.)*

The results show 15 votes in favor and 14 against; the proposed amendment is approved.

MR. RAMA. Madam President, I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Madam President, in connection with the first sentence of Section 4 (c) which presently reads: "Non-stock, non-profit educational institutions shall be exempt from taxes and duties as may be provided by law," we would like to submit the following proposal by substitution.

MR. VILLACORTA. A prejudicial point, Madam President, before Commissioner Suarez comes up with his amendment.

THE PRESIDENT. Please proceed.

MR. VILLACORTA. There was a mistake in the typing here. On lines 12 and 13, the word "such" and the phrase "as may be provided by law" should be deleted. Somehow, there was a mix-up and, therefore, the sentence should read: "Non-stock, non-profit educational institutions shall be exempt from taxes and duties."

MR. SUAREZ. Thank you for the clarification.

Precisely, that phrase "as may be provided by law" is one of the points I am going to raise. Before I submit my amended proposal which is taken in the light of the chairman's information that the word "such" and the phrase "as may be provided by law" have already been deleted by the committee, may we just ask one clarificatory question? When we say "non-stock, non-profit educational institutions shall be exempt from taxes and duties," this is a very general statement. However, does the Commissioner have in mind those educational institutions with earnings that are exempt from taxes, because these earnings are going to be used exclusively for educational purposes?

MR. VILLACORTA. That is right.

MR. SUAREZ. Does the Commissioner have in mind also this importation of cars by educational institutions whereby they would be exempt from the payment of customs duties or import duties?

MS. ROSARIO BRAID. This exemption would apply to a limited degree, like the needed laboratory equipment, audio-visual van, books and library equipment. They will be exempt from such duties.

MR. SUAREZ. But not these imported cars.

MR. VILLACORTA. I do not think any nonstock school imports cars these days.

MR. SUAREZ. What is important here is that they must be directly and exclusively used for educational purposes.

MR. VILLACORTA. That is right.

MR. SUAREZ. That is why I was thinking that in order to harmonize the idea behind this provision, would the committee entertain this amendment by substitution? It will read something like this: "ALL REVENUES AND ASSETS OF non-stock non-profit educational institutions USED DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES shall be exempt from taxes and duties."

To make it emphatic, only those which are directly and exclusively used for educational purposes, whether they are revenues, assets, equipments, buildings, all of these, should be exempt from taxes and duties. The essential factor is that they must all be used by nonstock, nonprofit educational institutions, directly and exclusively for educational purposes.

MR. GASCON. I would like to ask a question. Does this also contemplate realty tax?

MR. SUAREZ. Yes, all assets and revenues.

MR. GASCON. Our point is this: There are many schools which are genuinely nonprofit and nonstock but which have been taxed at the expense of the students. In the long run, these schools oftentimes have to increase tuition fees which is detrimental to the interest of the students. So when we encourage nonstock, nonprofit institutions by assuring them of tax exemption, we also assure the students of lower tuition fees. That is the intent.

MR. SUAREZ. Yes, that is the intent.

MR. GASCON. If that intent is not lost by the Commissioner's proposal . . .

MR. SUAREZ. No, it is definitely not lost. In fact, it encourages the reduction, if not total elimination, of these tuition fees that Commissioner Gascon is talking about.

MR. VILLACORTA. The committee accepts the Commissioner's amendment.

MR. SUAREZ. Thank you.

MR. NOLLEDO. Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, I would like to invite the attention of the members of the committee and the Commissioners that in Section 29 of the proposed Article on the Legislative which the Commission had already approved on Second Reading, we have the following provisions:

> (3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries and all lands, buildings and improvements actually, directly and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.
>
> (4) No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of Congress.

Under the proposal of Commissioner Suarez, properties are included, meaning, assets, as proposed, and therefore, the same already falls under the approved subsection (3) of Section 29 of the proposed Article on the Legislative. Insofar as the revenues are concerned, I do not think that it would be appropriate for us to make a total exemption now. I would rather suggest that we should leave it to Congress to provide later, because we do not have the data or statistics showing how much income taxes the government had actually collected from existing institutions. Hence, if we grant this general overall tax exemption, it may mean depletion of the income of the government. It should be noted that we have provided for a complete, free education up to the secondary level. We even had the problem of its approval because of the difficulty of the government to provide for the necessary outlays for a free high school education.

So, I would propose that in respect to revenues, exemptions may be provided only if Congress so mandates. As to properties, we already have Section 29 (3) of the Article on the Legislative.

MR. GASCON. The proposal is with regard to nonstock, nonprofit institutions. Does the Commissioner contemplate that nonstock, nonprofit schools should not be exempted from income tax because we have another subsection on proprietary schools?

MR. DAVIDE. Yes, we leave it to Congress as proposed by the committee.

MR. GASCON. This is what we feel – we should not encourage profit-making in education.

MR. DAVIDE. In like manner, we should not also be very quick in granting total exemptions.

MR. GASCON. That is why we feel that when an institution is nonstock and nonprofit, at least in principle, the income generated will accrue back as far as its education service is the one concerned.

MR. DAVIDE. That is if we mandate that all its income shall have to accrue back to the operation of the school, because unless we also so provide in the Constitution that such income must be exclusively used for the operation of the school, it would be dangerous. There can easily be an avoidance of the requirement.

FR. BERNAS. Madam President.

THE PRESIDENT. May we hear first from Commissioner Nolledo, after which Commissioner Bernas will follow.

MR. NOLLEDO. Thank you, Madam President.

I agree with Commissioner Gascon, because we have a mandate that education is an obligation of the State and in order to give meaning to this mandate, we should grant tax exemption to educational institutions that are nonprofit.

In the words of Commissioner Ople, institutions are educating the youth, whether nonprofit or otherwise suffering from financial hemorrhage. I was one of those who set up schools before because I thought we would make money. However, we had to close our schools because of the ever continuing demands on the part of the students for a higher standard of education. So, I think what is important here is the philosophy behind the duty on the part of the State to educate the Filipino people and that duty is being shouldered by private institutions. In order to provide an incentive to private institutions to share with the State the responsibility of educating the youth, I think we should grant tax exemption.

With respect to the tax exemption contemplated in the Suarez amendment, it is not true that it is already covered by the provision in the Article on the Legislative because the said article refers only to lands, buildings and real property, while the Suarez amendment, which is very logical, refers to other properties, like importations, to be exempt from compensating tax, advance sales tax, other customs duties and charges. These would give true meaning and substance to the duty of the State to provide education.

I plead to the Members of this Commission to realize the present situation. It is not only in the present situation, but also in the past and in the future situations that there will always be a "financial hemorrhage" on the part of educational institutions, using the words of my friend, Commissioner Ople.

Thank you, Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, in addition to what Commissioner Nolledo said, the provision, as formulated by Commissioner Suarez, has already the safeguards because the phrase "USED DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES" modifies not just assets but also revenues. That is the clear intent of this proposal. So, if the revenue or the income is to be used directly and exclusively for educational purposes, that is the one that is exempt, but not revenues for other purposes. Second, this is perfectly in keeping with a provision which we had earlier approved, where we tell the State to maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged.

It is all in this spirit. It is true that the State will be losing some income, but that income comes in as a built-in subsidy to the operation of the school. This subsidy will, therefore, enable the school to either give more scholarships or increase the salary of the faculty without passing on the cost to the students. This is in keeping with our idea of trying to make quality education available to all.

BISHOP BACANI. Madam President.

THE PRESIDENT. We will first hear from Commissioner Bacani. Then we will have Commissioner Ople.

BISHOP BACANI. May I add to the comments of Commissioners Nolledo and Bernas.

I am now a director of two schools, one in the province and the other in Paco, Manila. Let me just tell the body that our school in Manila, which is nonprofit and nonstock, is losing this year. I am surprised because I reported a smaller figure before. However, I am really frantic now because we are losing P500,000 despite the fact that we have 7,200 students. I also know that one of our schools in a certain province, when I was the director there, could barely make both ends meet. Also, when I was the assistant parish priest in that same province, we had a hard time maintaining one of the colleges there, if it were not for the foreign subsidies that we were receiving from a religious order.

Hence, it is very appropriate and necessary that we donate and we do not burden the schools any further because there is no profit in them. One is crazy if he will establish a school at present in order to gain profit, because he certainly will not make profit.

Thank you, Madam President.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. There is really a crisis in the tertiary education in the Philippines for the simple reason that according to the Ministry of Education, Culture and Sports, 85 percent of all tertiary schools are private. When one owns a private school, he has to earn the cost of his continued survival by turning in some surpluses which he may call a profit if he likes. What happened to the University of the East helps focus the attention on this gathering crisis for the tertiary system. We can begin with the assumption that the State cannot replace this 85 percent of tertiary schools in private hands and, therefore, it is a wise course for this Commission to help meet this crisis partially by extending assistance to the private tertiary sector appearing in Section 4 (c) by providing exemption from taxes. However, they wanted to find out whether this is a blanket exemption.

I begin to agree with Commissioners Suarez and Davide that it may not be possible to anticipate loopholes in such a blanket grant, especially with the elimination of the phrase "as may be provided by law." Will this also include the importations of textbooks, reading materials and supplies?

MR. VILLACORTA. Yes, that is the intention.

MR. OPLE. I am all in favor of liberalizing the inflow of books and reading materials even of general character to the Philippines. These will raise implications in our own textbook and printing industry. Maybe the people engaged in this industry should have the opportunity to lobby in the future Congress which will be created by this Constitution just to be able to get a day in court, because we do manufacture our own textbooks. A very sturdy publishing company, like the National Bookstore or even the Rex Bookstore, which publishes the books of Commissioners Bernas and Nolledo, may end up unintentionally causing the destruction of this particular industry. As what Commissioner Davide has suggested, we might be able to reinstate – if the committee agrees – the safeguard so that Congress will have a role, and the industries adversely affected will have their day in court.

In the second sentence, I suggest that we be more explicit and say: "Proprietary educational institutions MAY BE entitled to SUCH exemptions provided they limit stockholders dividends AND PLOW BACK THEIR EARNINGS TO THE INSTITUTION as the law may provide."

These are two suggestions for the committee, Madam President.

SUSPENSION OF SESSION

MR. VILLACORTA. Madam President, the committee requests a suspension so that we can incorporate all these proposals in the amended provisions.

THE PRESIDENT. The session is suspended.

It was 3:52 p.m.

RESUMPTION OF SESSION

At 3:56 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

In view of the provision that was originally submitted and presented by the committee, may I submit this amendment by substitution on the first sentence only. As proposed, it should read: "ALL REVENUES AND ASSETS OF non-stock non-profit educational institutions USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES shall be exempt from taxes and duties." The coauthors of this amendment are: Commissioners Ople, Nolledo, Monsod, Davide and this humble Representation.

MR. VILLACORTA. Madam President, the committee accepts the amendment and would like to ask for a vote.

MR. NOLLEDO. Madam President, just for purposes of the record, I would like to ask one clarificatory question.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. When Commissioner Suarez talks of assets, does he also include importations and, therefore, should be exempt from compensating tax?

MR. SUAREZ. Yes, the Commissioner is right.

MR. NOLLEDO. Thank you.

THE PRESIDENT. This is just to clarify. The proposed amendment of Commissioner Suarez refers only to the first sentence, lines 11, 12 and 13.

MR. SUAREZ. Yes, Madam President, it refers only to the first sentence.

MR. GASCON. Will the Commissioner please repeat it.

MR. SUAREZ. Here is the amended proposal: "ALL REVENUES AND ASSETS OF non-stock non-profit educational institutions USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES shall be exempt from taxes and duties."

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I am in favor of that proposed amendment, but I would like to ask if these words "non-stock non-profit" are cumulative.

MR. SUAREZ. They are cumulative.

MR. PADILLA. Must it always be "non-stock" so long as it is "non-profit"?

MR. SUAREZ. The two must go together that is why there should be no comma to separate them.

MR. PADILLA. If it is a stock corporation but also nonprofit, it will not qualify.

MR. SUAREZ. It will not qualify; it must be nonstock and nonprofit.

MR. PADILLA. Why is there a particular preference to "nonstock" as distinguished from "stock," if the educational institutions are both nonprofit?

MR. SUAREZ. May I have the question again? I did not get the correct drift of the question.

MR. PADILLA. I was asking why we should stress "non-stock" as distinguished from "stock" if the educational institution in both is nonprofit. The underlying principle is that a nonprofit educational institution is tax exempt if its assets and revenues are directly, actually and exclusively used for educational purposes.

MR. SUAREZ. The moment we organize a stock corporation, then we as stockholders will surely have interest in the assets and are now entitled to dividends. In other words, although it may be essentially nonprofit in character, the fact remains that when we put up a stock corporation, we are thinking in terms of stockholders who have interest in the corporation in the event of dissolution or liquidation.

MR. PADILLA. But a nonstock educational institution also has members, only that they are not called stockholders because it is nonstock.

MR. SUAREZ. Yes.

MR. PADILLA. I do not really see the essential difference so long as both educational institutions are nonprofit.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. The word "non-stock" is placed mainly as a safeguard because the moment we form a stock corporation the implication is that it is for profit. So just to make sure that there will be no getting around the nonprofit idea, we require that the corporation be also nonstock. That is already a banner saying that this is nonprofit. The word "non-profit" means that no income accrues to the benefit of any member of the corporation.

THE PRESIDENT. All right. Are we ready now to vote?

MR. AZCUNA. Madam President, before we vote, may I ask a clarificatory question.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. The proponent said that the revenues of nonstock and nonprofit educational institutions must be actually, directly and exclusively used for educational purposes. So, until the revenues are plowed back to an educational purpose and are just retained in the school for reserve, would the school have to pay taxes on these revenues?

MR. SUAREZ. If the reserve will be used for educational purposes, actually, directly and exclusively, the school will also enjoy the same exemption.

MR. AZCUNA. But the taxable year is reckoned from year to year and the reserve may not be actually used until five years from then; so is the tax postponed until such time as it is used?

MR. SUAREZ. There is no postponement in the enjoyment of the exemption because it could very well happen that there may be reserved funds there but are intended for the purchase of laboratory equipment, library books, et cetera.

MR. AZCUNA. How about "retained earnings," would they have to pay taxes on retained earnings?

MR. SUAREZ. No, retained earnings would have to be considered in the form of reserve, in the same category.

MR. AZCUNA. So, there will be no tax on that.

MR. SUAREZ. No, there will be no tax.

MR. AZCUNA. Thank you.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Will the committee please place on the record what are these educational institutions they contemplate to be within the category of nonstock and nonprofit educational institutions, considering the fact that paragraph (b) was deleted and there were mention about "foundations" and "cooperatively owned corporations." Also, there was a proposal that somewhere along the subsequent paragraphs, we may incorporate the concepts in paragraph (b) which was deleted.

MR. VILLACORTA. Commissioner Treñas will answer that.

THE PRESIDENT. Commissioner Treñas is recognized.

MR. TREÑAS. On behalf of the committee, I think there is no need to enumerate what the Commissioner is asking for because this section is very clear. It only refers to nonstock and nonprofit educational institutions. Therefore, as long as it is nonstock and nonprofit, necessarily, it must fall within the ambit of this provision.

MR. REGALADO. How would the Commissioner put and consider the matter of educational foundations and cooperatively owned institutions?

MR. TREÑAS. If they are cooperatives, they fall under different classifications.

MR. REGALADO. Therefore, they will be proprietary, as shown in the second sentence?

MR. TREÑAS. Yes.

MR. REGALADO. Thank you.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Before we vote, may I be allowed to raise two points. The nonstock or nonprofit corporation will be organized for a specific period or a maximum of 50 years. If the corporation is dissolved or if it ceases to exist, what will happen to the properties acquired by the corporation while enjoying the tax exemption?

MS. ROSARIO BRAID. The Foundation Law will apply to this situation. It will either revert to the State or the owners could give the facilities, resources and assets to selected foundations.

MR. DAVIDE. So, it is the stand of the committee that if said nonstock and nonprofit educational institution shall cease to be a corporation before the expiry date of its lifetime or upon its dissolution following the expiration of its lifetime, will all the assets of this corporation be escheated in favor of the State according to the Foundation Law?

MR. GUINGONA. Madam President, if the foundation is established under RA 6055, there is a specific provision regarding escheat. With respect to those that are not established under RA 6055, there is a provision under Education Act of 1982 which speaks of transfer of assets to other nonprofit, nonstock foundations or to such institutions as the court may decide. However, this is a statutory law and is, therefore, subject to repeal. If there is such a repeal, then there is nothing in the law that will directly apply to the problem or to the situation that the Commissioner has stated. But under the existing laws, those institutions covered by RA 6055 will have no question regarding the requirement of the Education Act of 1982 that there will be escheat.

MR. DAVIDE. That is assuming that these laws would be made applicable?

MR. GUINGONA. There are existing laws.

MR. DAVIDE. Would not the committee entertain a rule on the distribution of the assets of this corporation upon its dissolution or upon the cessation of its corporate existence to be provided in the Constitution itself?

MR. TREÑAS. May I respond on behalf of the committee. I feel that we should leave that to the law already. After all, we are sure that there is a provision in the law regarding what will happen upon the dissolution of a nonstock and nonprofit corporation.

MR. DAVIDE. That may be true if the provision in the Constitution is subject to the qualification as may be provided by law, in respect to the rule on the distribution of the assets upon the dissolution of the corporation or upon the cessation of its existence prior to its expiry date.

So, may I make a reservation to propose an amendment after the approval of the Suarez proposal regarding the rule on assets?

MR. TREÑAS. We shall hear that. In the meantime, I think we are ready to vote on the Suarez amendment which was already discussed exhaustively.

MR. RAMA. Commissioner Suarez will restate his amendment.

MR. SUAREZ. Thank you.

Here is the proposed amendment: "ALL REVENUES AND ASSETS OF non-stock, non-profit educational institutions USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES shall be exempt from taxes and duties."

VOTING

THE PRESIDENT. As many as are in favor of this proposed amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against the amendment, please raise their hand. *(No Member raised his hand.)*

The results show 32 votes in favor and none against; the Suarez amendment is approved.

MR. RAMA. Madam President, I would like to ask the committee one or two questions regarding the definition of "educational institutions." There are many fake educational institutions that tend to set themselves up for purposes of availing themselves of tax exemption. So I hope that the committee would definitely define "educational institutions" not to include correspondence schools.

MR. VILLACORTA. Educational institutions would refer to those with a certificate of authority from the Ministry of Education, Culture and Sports.

MR. RAMA. Nevertheless, these educational institutions do not include those kinds of nonstandard education, like the widening of the mind normally set up by the gurus. One of these educational institutions often go into some incantation saying *dai-lama dai-lama*. I think these are not the institutions that should be included here.

MR. VILLACORTA. They are not accredited by the ministry. We are only talking about accredited educational institutions, accredited in the sense of having been given a certificate of authority.

THE PRESIDENT. We will now proceed to the second sentence.

MR. VILLACORTA. The second sentence, Madam President, reads: "Proprietary AND COOPERATIVELY-OWNED educational institutions MAY BE entitled to SUCH exemptions provided they limit stockholders' dividends as the law may provide."

MR. RAMA. Madam President, may I ask that Commissioner Ople be recognized to amend this particular sentence?

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, after the phrase "limit stockholders' dividends," I propose to insert the phrase "AND REINVEST THE MAJOR PART OF THEIR EARNINGS IN THE INSTITUTION." So in its entirety, the sentence will read: "Proprietary AND COOPERATIVELY-OWNED educational institutions MAY BE entitled to SUCH exemptions provided they limit stockholders' dividends AND REINVEST THE MAJOR PART OF THEIR EARNINGS IN THE INSTITUTION as the law may provide."

Madam President, in a sense, the original phrase "limit stockholders' dividends" may already be self-sufficient. But since this involves blanket exemptions from taxes and duties involving a major concession from the people, I think we should not stop short of saying "limit stockholders' dividends." After limiting the stockholders' dividends, we may have a situation where stockholders will borrow from the reserve which they sometimes invest indefinitely in the money market for the unearned increment. So when Congress considers the enabling law for this sentence in subsection (c), then they will be guided by a more rigorous standard for granting tax exemptions for proprietary institutions. That is to say not only to limit stockholders' dividends, but also to reinvest the major part of their earnings in the institution as the law may provide.

MR. TREÑAS. Madam President, may I ask a clarificatory question? What is the Commissioner's concept of the phrase "major part"?

MR. OPLE. After deducting the limited dividend, I suppose the major part of what is left of the earnings or of the retained earnings should be reinvested in the institutions.

MR. TREÑAS. Thank you.

MR. VILLACORTA. The committee accepts the amendment.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I ask the honorable Commissioner a question?

MR. OPLE. Yes.

MR. MONSOD. Are we saying in this provision that the limitations will only be those related to stockholders' dividends and reinvestment? Are we saying that Congress may not impose limitations other than those two?

MR. OPLE. These are not all inclusive, Madam President. They constitute minimum standards.

MR. MONSOD. I ask so because the Congress may consider salaries of the officers, borrowings of the officers from the funds at subsidized interest rates and so on, and by just enumerating these two limitations unless we are saying not exclusively or something like that, then it seems that we are telling Congress that a long as these two limitations are there it is all right to grant exemptions.

MR. OPLE. Yes. As I said these are minimum standards established by the Constitution and certainly will not prevent Congress from stipulating other limitations if they so wish within the spirit of these limitations provided in this section as amended.

MR. MONSOD. I am going to suggest saying that proprietary educational institutions may likewise be entitled to similar exemptions subject to the limitations provided by law, which gives Congress all the leeway to provide the limitations without seeming to limit them to these two types. And if the Commissioner wants, we can add "SUCH AS" or "INCLUDING" and so on.

MR. OPLE. I will have no difficulty with that. May I invite Commissioner Monsod to help me reword this text for the consideration of the committee?

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Just one or two questions. Does "proprietary educational institutions" include single proprietorship?

MS. ROSARIO BRAID. Yes.

MR. RODRIGO. Does it also include partnerships?

MS. ROSARIO BRAID. Yes.

MR. RODRIGO. Does it include nonstock corporations or associations?

MS. ROSARIO BRAID. Yes.

MR. RODRIGO. If the exemption will be based on the limit to stockholders' dividends, then single proprietorship, partnership and association have no stockholders.

MR. OPLE. Yes. That is quite correct.

If the Chair will be kind enough to grant us one minute to compare notes, we would appreciate it.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 4:19 p.m.

RESUMPTION OF SESSION

At 5:03 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Ople be recognized for his pending amendment.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you, Madam President.

May I read this amendment as already agreed upon by all the parties concerned and cleared by the members of the committee. The second sentence of subparagraph (c) will read as follows: "Proprietary educational institutions INCLUDING THOSE COOPERATIVELY-OWNED may LIKEWISE be entitled to such exemptions SUBJECT TO THE LIMITATIONS PROVIDED BY LAW INCLUDING RESTRICTIONS ON dividends AND PROVISIONS FOR REINVESTMENT." This combines contributions made by Commissioners Monsod, Nolledo and myself.

May I seek the committee's approval, Madam President.

MR. VILLACORTA. The committee accepts the amendment.

MR. OPLE. Thank you.

VOTING

THE PRESIDENT. We will proceed now to vote on this proposed amendment which has been accepted by the committee.

As many as are in favor of the proposed amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 27 votes in favor, none against and 1 abstention; the proposed amendment is approved.

MR. VILLACORTA. Madam President, Commissioner Rosario Braid has an amendment that if approved will be a new subsection for the article.

THE PRESIDENT. Following subsection (c)?

MR. VILLACORTA. That is right, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I have an anterior amendment related to the very section that was subject of the Ople amendment. After the Ople amendment, add the following new sentence: "UPON THEIR DISSOLUTION OR CESSATION OF THEIR CORPORATE EXISTENCE ASSETS OF NON-STOCK AND NON-PROFIT INSTITUTIONS SHALL BE DISPOSED OF IN THE MANNER PROVIDED BY LAW."

THE PRESIDENT. Is this acceptable to the committee?

MR. VILLACORTA. Will the Gentleman please repeat the amendment?

MR. DAVIDE. "UPON THEIR DISSOLUTION OR CESSATION OF THEIR CORPORATE EXISTENCE ASSETS OF NON-STOCK AND NON-PROFIT INSTITUTIONS SHALL BE DISPOSED OF IN THE MANNER PROVIDED BY LAW."

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, may the honorable Commissioner yield to just one question. Is that not yet provided in the present . . .

MR. DAVIDE. Madam President, under the Foundation Law, there is a provision. But if organized as a nonstock corporation under the Corporation Code, there is none.

BISHOP BACANI. Thank you.

MR. NOLLEDO. Point of information, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Under the Corporation Code, there is a provision on nonstock corporations: that the assets shall be used for the same purposes as originally contemplated. So, it will enure to the benefit of institutions doing the same job; meaning, to engage in the business of education. In the absence of this provision, it will enure to the benefit of the municipality or city or the place where the institution is located.

Thank you, Madam President.

MR. DAVIDE. I do not think that particular provision would apply specifically to nonstock, nonprofit educational institutions. The proposal is precisely to govern these particular nonprofit and nonstock educational institutions.

THE PRESIDENT. What does the committee say?

MR. TREÑAS. May we suggest that that particular provision be inserted after this first sentence, not in the last, so that it will refer to nonstock, nonprofit educational institutions.

MR. DAVIDE. My proposal is the last because the Ople amendment is very much related to the first on exemptions. After all, we describe this as nonstock and nonprofit, referring again to the corporation mentioned in the first sentence of the subsection.

We will leave it to the Style Committee.

MR. TREÑAS. It is all right.

THE PRESIDENT. How will the amendment read?

MR. DAVIDE. It will read, Madam President, as follows: "UPON THEIR DISSOLUTION OR CESSATION OF THEIR CORPORATE EXISTENCE ASSETS OF NON-STOCK AND NON-PROFIT INSTITUTIONS SHALL BE DISPOSED OF IN THE MANNER PROVIDED BY LAW."

THE PRESIDENT. Is that clear enough, Commissioner Treñas?

MR. TREÑAS. Yes, Madam President, because the amendment of Commissioner Ople refers to proprietary educational institutions and cooperatives.

MR. DAVIDE. I have no objection, if that is the desire of the committee.

MR. TREÑAS. We accept the amendment.

VOTING

THE PRESIDENT. As many as are in favor of the Davide amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 23 votes in favor, none against and 2 abstentions; the Davide amendment is approved.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. May I now propose my amendment which will be Section 3 (c)? I started this earlier but the prevailing viewpoint was that this be treated as a separate section. This is an amendment proposed by the committee, together with Commissioner Sarmiento, copies of which I distributed to the Members last Saturday. It reads: "THE STATE SHALL ESTABLISH AND STRENGTHEN VOLUNTARY COM-

MUNITY LEARNING CENTERS INCLUDING PRESCHOOLS AND FACILITATE DEVELOPMENT OF INNOVATIVE APPROACHES BASED ON THE UNIQUE CAPABILITIES OF THE COMMUNITY AND THE LEARNERS." I explained this amendment earlier but I will be happy to summarize, if the Commissioners so desire.

The concept of "voluntary" here means that initiative would come from private organizations, families and community members. There are experiments on livelihood activities going on now for those especially gifted, for slow learners, for communities in the periphery of regions, such as the Bayanihan Schools Grassroots Development Institute, ACC Foundation, INNOTECH, and a dozen of others. But the intent is to tailor learning to the community's social and economic needs. We mentioned earlier that we would like to link this to development planning because in several studies undertaken, the dearth of community learning centers has been found to be one of the problems in effecting municipal development planning and barangay development planning. The schools were often so far away from the village and so, there is really a need for community learning centers.

If this provision is accepted, this would mean conversion of government offices, settlements, PNOC offices that are located in the communities into learning centers. This would also mean broadening preschools—that they are not only located in the urban areas but also in the communities. We all know that discipline and independence are taught at this early stage. Most importantly, the intent is to come up with innovative approaches that are tailored to individual needs; so, this provision seeks to strengthen and to democratize education in the community.

Thank you, Madam President.

MR. NOLLEDO. Madam President, just a few questions.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

When we talk of learning centers, are centers for vocational efficiency included?

MS. ROSARIO BRAID. Yes, Madam President, they would be.

MR. NOLLEDO. Would the Commissioner include small cottage industries?

MS. ROSARIO BRAID. Yes, Madam President.

MR. NOLLEDO. Handicrafts, for example.

MS. ROSARIO BRAID. Yes. Livelihood concerns small cottage industries.

MR. NOLLEDO. Therefore, when the Commissioner talks of learners, she also talks of employees who are being trained to do handicraft or other vocational work?

MS. ROSARIO BRAID. Yes, Madam President.

MR. NOLLEDO. Therefore, these jobs should be coordinated with the Ministry of Labor and Employment.

MS. ROSARIO BRAID. With the National Manpower and Youth Council, because the intent is also to encourage private initiative together with the MOLE's effort.

MR. NOLLEDO. Therefore, the purpose of this amendment is also to promote economic and social progress within the localities?

MS. ROSARIO BRAID. Yes, and to complement these economic activities with what we call social learning. They learn how to live within the community's self-reliance by possessing certain skills.

MR. NOLLEDO. Therefore, the provision is also designed to foster what we call cooperativism.

MS. ROSARIO BRAID. Yes.

MR. NOLLEDO. Thank you very much.

MR. PADILLA. Madam President.

THE PRESIDENT. The Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA. May I propound one or two questions? Will this proposed section not be covered by the phrases I wanted to use; namely, formal, nonformal, informal, indigenous and self-learning?

MS. ROSARIO BRAID. Yes, but it is more than that. It also covers formal in the sense that this provision can be credit courses and provides mothers the opportunities to get together, establish schools and design the curriculum for their preelementary or elementary school children. This is credited and accepted by the ministry; this is a formal class but with an innovative feature because instead of accepting the curriculum that has been imposed by the ministry, they design their own curricula. As a matter of fact, there are experiments going on, not just on nonformal education but also on formal education.

MR. PADILLA. Yes, but the previous words included not only formal, nonformal, informal, indigenous and self-teaching.

MS. ROSARIO BRAID. Yes.

MR. PADILLA. So why qualify it with the words "unique and innovative"?

MS. ROSARIO BRAID. The concept of unique capabilities here takes into consideration that pupils and students have different capabilities in learning. Some are slower than the others perhaps because they come from barrios and, being deprived of information, do not easily grasp concepts that are given in a very uniform curriculum. Some also have special problems; some are more advanced than the others. But we have to submit that the present curriculum is very homogeneous and does not take into consideration the different aptitudes and capabilities of learners.

MR. PADILLA. I feel it is unnecessary and already covered by the previous words "apply to education."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Just some clarificatory questions. Did I hear it correctly that as worded the proposal will read: "THE STATE SHALL ESTABLISH AND STRENGTHEN VOLUNTARY COMMUNITY LEARNING CENTERS INCLUDING PRESCHOOLS"? The question is, the Commissioner included the word "ESTABLISH."

MS. ROSARIO BRAID. This was an amendment by Commissioner Sarmiento, but I see the point of the Gentleman that the original word is "STRENGTHEN." But the point of Commissioner Sarmiento is that preschools do not yet exist except in urban centers.

MR. DAVIDE. So the committee has accepted the Sarmiento amendment to include the word "establish"?

MS. ROSARIO BRAID. Yes, Madam President.

MR. DAVIDE. If this will be as such, it will, therefore, be mandatory upon the State to provide preparatory schools for pupils less than the school age of seven.

MS. ROSARIO BRAID. Yes, Madam President.

MR. DAVIDE. So, these will be special schools for Filipino citizens from 4 years old to 6 years old?

MS. ROSARIO BRAID. Yes, Madam President.

MR. DAVIDE. Has the committee studied the possibility of the number of preschoolers who will have to be enrolled in these community learning centers?

MS. ROSARIO BRAID. I think the intent of this provision is to encourage private initiative.

MR. DAVIDE. But the provision now with the Sarmiento amendment is that the State will have to establish these preschools; therefore, it would be more expensive than maintaining a complete compulsory elementary school because there are more who are below 7 years old?

MS. ROSARIO BRAID. The Gentleman is right. So after looking at the provision, we would like to maintain the word "VOLUNTARY" – that this is initiative of the private enterprise – and delete the word "ESTABLISH."

MR. DAVIDE. Thank you for that information. So will it now stay as originally worded?

MS. ROSARIO BRAID. Yes.

MR. NOLLEDO. Madam President, may I speak in favor of the amendment.

THE PRESIDENT. Commissioner Nolledo may proceed.

MR. NOLLEDO. Thank you, Madam President.

I think many Rosario Braid proposals are innovative in nature, that is why those proposals find unjustified resistance on the part of some Commissioners, with due respect to them. Madam President, I think that Rosario Braid proposal will involve the youth in the affairs of the community. When we say "including preschools," we do not mean that we cannot establish some sort of vocational work that will be fostered among the members of the community. Secondly, it will diversify local activities. I ask the Members of the Commission to take note of what happened in Negros when the people who were used only to doing work in the sugarcane fields experienced hunger and privation when the sugar industry failed because of maladministration on the part of President Marcos and his cronies, and there was no diversification. The learning centers will diversify activities in the local communities. They will learn handicrafts, promote vocational efficiency, etc.

The third reason for supporting the amendment is that it will destroy the passivity of the members of the community. We cannot deny that in many areas of the Philippines, if not in all areas of the Philippines, after harvesting rice or crops peculiar to the community, the people stay put in their respective houses without anything to do except perhaps to make children and increase the population of the Republic of the Philippines. So I ask the Members of the Commission to please support this amendment because it will revolutionalize the local scene in the Philippines. Diversification of activities is very important in the economic life of the nation, Madam President.

Thank you very much.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, may I speak in favor of the revolutionary approach, the creation or establishment of preschools. Psychological studies support the concept of preschool education. Experimental and quasi-experimental studies made by psychologists as well as clinical studies made by psychoanalysts lead to one conclusion. The first five years of childhood are very crucial in determining behavior and reaction patterns in our adult life. Psychoanalysts have discovered that experiences in one's early childhood influence a person's behavior even 50 years later. All these psychological axioms, therefore, lead us to another intelligent conclusion and that is, preschool or pre-elementary education is vitally important. This is the stage where one's intellectual and emotional foundations are built. Higher education with a weak foundation is no education at all. Little need be said regarding this matter for we cannot belabor the obvious. Then we have this UNESCO study and the study revealed that preschool education has the following advantages: First, it increases chances of success in elementary education, and second, it increases the ability of pupils to learn new skills. Even the Bureau of Elementary Education of the Ministry of Education, Culture and Sports is supportive of preschool education.

Dr. Juanita Guerrero, director of the Bureau of Elementary Education, said that preschool education will pave the way for increased skills and awareness of our pupils in the Philippines.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I would like to suggest an amendment to make the provision a little more within our reach. I suggest that the paragraph be rephrased to say: "THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS WITHIN THE FINANCIAL RESOURCES OF THE GOVERNMENT TO FACILITATE THE DEVELOPMENT OF LOCAL EDUCATIONAL CAPABILITIES."

MS. ROSARIO BRAID. As long as the amendment includes the concept of preschool education and the notion of innovative approaches which will differ from the traditional approaches.

MR. MONSOD. Yes, Madam President, I believe that the general statement would be sufficient and the Commissioner can read into the record the types and configurations and refinements that would be included within the concept. Once we start enumerating, we may not be exhaustive.

THE PRESIDENT. Will the Gentleman read again his amendment?

MR. MONSOD. "THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS WITHIN THE FINANCIAL RESOURCES OF THE GOVERNMENT TO FACILITATE THE DEVELOPMENT OF LOCAL EDUCATIONAL CAPABILITIES."

MS. ROSARIO BRAID. Yes. This will include the notion of government partnership with private foundations and private initiatives, the notion of linking existing resources of government with resources that can be tapped for these learning centers, like I did mention earlier.

MR. MONSOD. Yes, Madam President, because I think what is important is for us to say that it must be within the financial capabilities of the government because we have other priorities.

MR. OPLE. Madam President, will Commissioner Monsod yield to a question?

MR. MONSOD. Yes, Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you.

When we speak of voluntary centers of learning, why do we talk about funding by the State? The way I understand it, when a learning center or an equivalent institution is voluntary, then it is private and civic in character and need not involve any cost to the government.

MR. MONSOD. I am putting it in the context of fact that the government will have to do something in promoting it, perhaps by making available facilities or assisting them in funding or things like that. I am amenable to removing the word "FINANCIAL" so that it says "WITHIN THE RESOURCES OF GOVERNMENT" to impart the idea that this should not be an unnecessarily additional burden to the government because we already have so many other priorities.

MS. ROSARIO BRAID. Madam President, one clarificatory question of the proponent. Will this mean that one responsibility of the government will be to rechannel funding from UNESCO, Food Agriculture Organization, and other relevant funding agencies to nongovernmental organizations that will be involved in implementing community learning centers? This means that the NEDA, as the agency that will coordinate all the financial contributions for social development, should channel the funds.

MR. MONSOD. When there is a fixed amount of resources available to the country and it is not increased by reason of this provision, then it is a matter of allocation, and that is a matter of priorities. If, however, there are additional resources that will only be available for these types of education, then I agree with the Gentleman that they are available. Otherwise, it is a matter of allocation. As a matter of fact, my original thinking was to say "at no additional cost to the government." I am also willing to restate it in that manner, Madam President.

MR. OPLE. Madam President, what do we mean by releasing local educational capabilities?

MR. MONSOD. "TO FACILITATE THE DEVELOPMENT OF LOCAL EDUCATIONAL CAPABILITIES," Madam President.

MR. OPLE. That sounds somewhat abstract. "LOCAL EDUCATIONAL CAPABILITIES" may actually be all-encompassing to include every educational capability; whereas, I think we are dealing with a relatively modest proposal concerning voluntary community learning centers. Can we delete the final clause in the proposed amendment?

MR. MONSOD. How does the Gentleman propose to restate it now?

MR. OPLE. "THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS," and probably end there.

MR. MONSOD. Without additional cost to the government?

MR. OPLE. Yes. I think if it is voluntary, then the cost to the government should be the incidental cost of promoting it.

MR. MONSOD. I accept the amendment, Madam President. "THE STATE SHALL PROMOTE VOLUNTARY COMMUNITY LEARNING CENTERS WITHOUT ADDITIONAL COST TO THE GOVERNMENT."

THE PRESIDENT. Is this acceptable to the committee?

MR. RAMA. It is accepted by the committee.

MR. VILLACORTA. It is accepted by the committee.

THE PRESIDENT So, we can proceed to vote.

MR. DAVIDE. Madam President, before the vote is made.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. If there is the proviso that it will entail no cost to the government, we should rather not have it. It means nothing.

SUSPENSION OF SESSION

THE PRESIDENT. The committee will please deliberate over this matter.

The session is suspended for a few minutes.

It was 5:34 p.m.

RESUMPTION OF SESSION

At 5:39 p.m., the session was resumed.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We had a conference with the committee and it is our understanding that the nonformal type of education includes the voluntary community learning systems and we would, therefore, encourage the original proponent of this amendment to explain and read that into the record. With that, it will not be necessary to have a separate provision and, therefore, I am withdrawing my amendment.

THE PRESIDENT. So, what is before the body now is the proposed amendment of Commissioner Rosario Braid. Is that correct?

MS. ROSARIO BRAID. Yes.

THE PRESIDENT. Has this been already explained by Commissioner Rosario Braid?

MS. ROSARIO BRAID. Yes. The deliberations on this particular provision will be read into the record in support of the provision on nonformal education, but we would like to emphasize that what we are proposing now is a tangible, implementable project called a "community learning center" so that Congress could give priority to the promotion of voluntary efforts in establishing community learning centers, including preschools.

THE PRESIDENT. May we have now the proposed amendment of the Commissioner so that the body can vote on it, unless there are other comments.

MS. ROSARIO BRAID. Madam President, we will just read this concept into the record for the provision earlier approved on nonformal education.

MR. VILLACORTA. Madam President, Commissioner Rosario Braid is not insisting on her amendment. So, there is no need to vote on it.

MR. RAMA. Madam President, I ask that Commissioner Tingson be recognized for an amendment on subsection (d).

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Commissioners Regalado, Maambong and this Representation join hands in proposing to the committee that we delete subsection (d) of this particular section on page 3, lines 16 to 18 which reads:

> The State shall not interfere with the right of every citizen to select a profession or course of study, subject to admission and selection requirements.

We, Commissioner Maambong and I, feel that Section 1, as already approved, amply takes care of the sense of this particular subsection. Section 1 says:

> The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

May I add, Madam President, that in point of language and in point of its nonnecessity, this Representation feels that probably we should really delete that. I do not seem to like the word "interfere" – "The State shall not interfere with the right of every citizen." I would rather use the sense of reenforcement, not to interfere but to inspire. I like Section 1 because it says something positive – "to protect and to promote the rights." It does not use the word "interfere." This particular subsection (d) is negative but Section 1 which says "it shall take appropriate steps to make education accessible to all" is positive. And so, Madam President, we respectfully suggest to the committee that we delete subsection (d).

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will either the committee or Commissioner Tingson respond to a question or two concerning this subsection (d)?

MR. TINGSON. Gladly, Madam President.

MR. OPLE. Thank you.

This paragraph seems to establish in the Constitution the principle of freedom of choice of individual citizen with respect to a profession or course of study. I suppose this is related to the freedom to choose one's career, the freedom to choose one's own employment, ultimately, the freedom to choose the kind of lifetime work to which he will dedicate himself. Is this sense of the freedom of choice sufficiently reflected in Section 1 of this Article on Education, Madam President?

MR. TINGSON. Madam President, this Representation feels – and I think I also express the feelings of my coproponent here, Commissioner Maambong – that the phrase "The State . . . shall take appropriate steps to make such education accessible to all" would take in naturally the desire of everyone to select whatever profession or course of study he would like to pursue.

MR. GASCON. The committee does not believe that the intent is covered by Section 1, the issue of freedom of choice. What we seek to avoid is a situation where the State imposes on the individual what course or degree or profession he should choose. It may be true that the State may make education accessible to an individual but the State may also say, "This is the only course you can choose." Therefore, it is making education accessible, but not providing any choice.

MR. OPLE. I think access acquires a democratic meaning when it is taken in the context of access to several choices, the final choice being made by the individual citizen. I think this is a valid constitutional principle, the right to freedom of choice with respect to the lifetime career and work to which a young citizen will devote himself. But at the same time, may I call the attention of the committee to the fact that having granted this freedom of choice, there is an immediate check on the freedom of choice by saying that this is subject to admission and selection requirements.

In the context of the NCEE, we all know that it is a mandatory interference of the State on the freedom of choice of high school graduates. May I also point out that because of this, about 70 percent passed and 30 percent flunked. In Metro Manila, in the National Capital Region, the passing grade is 97 percent; in the outer regions the passing grade is 70 percent. Therefore, through the NCEE, the State effectively interferes with the choice of a course of study by eliminating this 30 percent who flunked. Of course, we can always say there must be a uniform standard. We cannot discriminate in favor of the people from Sulu and Tawi-Tawi or from, let us say, the Cordillera, whose passing mark is of course conspicuously lower; and yet in the Philippine Science High School, according to Commissioner Monsod, they now establish two thresholds of tests – of the rigor tests – for entrance purposes. One is for the city-bred – 60 and the other, for the provincial students – 40. Yet after six months, the provincial student who ranked at 40 very quickly catches up with the city-bred at 60, probably after some exposure to television, to newspapers or print media and to the intellectually stimulating environment of a city atmosphere.

So, there is that interference on the part of the State through the NCEE, which immediately negates the freedom of choice enshrined as a fundamental principle in the Constitution. Therefore, without prejudice to the action on the proposed amendment of Commissioner Tingson, should the committee insist on retaining this paragraph, I would like some amendment to follow it, which will merely say that the State may establish national qualifying examinations but which will consider interregional equity.

MR. SARMIENTO. Madam President, may I suggest that the committee insist on this amendment.

MR. GASCON. Yes.

MR. SARMIENTO. I was the principal author of a resolution adopted by the committee and which is now reflected in this committee report. This is now the resolution I filed together with Commissioner Nolledo.

Madam President, we believe that the State should not interfere with the right of every citizen to select a profession. This is a reaction against the NCEE. This is our response to the popular clamor of students whom we consulted and who made this proposal.

MR. OPLE. Will Commissioner Sarmiento agree to the deletion of the clause "subject to admission and selection requirements," and then the addition of a sentence: "THE STATE MAY ESTABLISH NATIONAL QUALIFYING EXAMINATIONS BUT THIS SHALL BE SUBJECT TO INTER-REGIONAL EQUITY"?

MR. GASCON. Madam President, may the committee respond. During the period of interpellations, the committee expressed its consensus that at this point in time, there is a great need to review and reassess the NCEE. But we do not feel that we should make a final judgment on the NCEE here in this constitutional body, the Constitutional Commission; rather we should leave it up to Congress and the different branches of government, particularly the MECS, to initiate the review and study of this. In fact, there is a popular clamor from the students, teachers and others at this point in time leading towards this. There is a move towards a review of the NCEE as it is now to reflect the position that Commissioner Ople has expressed, providing for greater consideration of the interregional differences. That is why we feel that we should not make a final judgment on this in this body, but instead we have a consensus that there is definitely a need to review and reassess it.

THE PRESIDENT. The committee does not accept the proposed amendment of Commissioner Tingson because the amendment is to delete the provision.

MR. GASCON. Yes, Madam President, because we feel that this clause is very important to assure the students the freedom of choice. With regard to the point of Commissioner Ople, it is also true that the committee believes that competence and certain requirements are needed for tertiary education. However, what these requirements would be, we leave it up to Congress again. For example, what Commissioner Ople is contemplating, a national examination, may be one of them, but not the only one. So, the whole point is, when we speak of tertiary education, we must realize that there is some form of admission and selection requirements necessary to handle the competence of tertiary education. So, we cannot accept Commissioner Tingson's amendment because there is a need to assure the students of this freedom of choice which is not present in Section 1. We feel that we should avoid a situation where the State will impose on the student what he or she must take.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. May I just make a manifestation that I am in agreement with the sentiments expressed by Commissioner Ople about the NCEE and the whole philosophy behind it, because this is one of our concerns in my small school in Negros Occidental. About the amendment I am proposing, I must confess I am wavering on it, and I am going to leave it now to my cosponsor, Commissioner Maambong.

MR. OPLE. Before I leave the podium, Madam President.

THE PRESIDENT. Excuse me, let us settle this question first. Is Commissioner Tingson withdrawing his proposed amendment to delete?

MR. TINGSON. No, Madam President.

THE PRESIDENT. Because if that is withdrawn, then we can present amendments to this particular section.

What is the pleasure of Commissioner Maambong?

MR. MAAMBONG. Madam President, we request a vote.

THE PRESIDENT. On whether to delete or not to delete the subsection?

MR. MAAMBONG. Yes, Madam President.

MR. GASCON. The committee does not accept the proposed amendment.

VOTING

THE PRESIDENT. As many as are in favor of deleting subsection (d) as proposed by Commissioners Tingson and Maambong, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 12 votes in favor, 14 against and 1 abstention; the proposed amendment is lost.

We are now ready for amendments to subsection (d) of the committee report.

Commissioner Ople is recognized.

MR. OPLE. Will the committee consider stopping the sentence after the word "study"? "The State shall not interfere with the right of every citizen to select a profession or course of study." Since we are establishing a principle of freedom of choice, we do not need to burden this with qualifications. It is understood that there will be selection and admission requirements. I wanted very much to find out whether the committee could, after all, accommodate this sentence about the NCEE that will make this provision more meaningful. We are not abrogating the NCEE, neither are we enacting a law about the NCEE. So, my proposal is to insert the sentence: "THE STATE MAY ESTABLISH QUALIFYING EXAMINATIONS SUBJECT TO INTER-REGIONAL EQUITY" after the first sentence which shall read: "The State shall not interfere with the right of every citizen to select a profession or course of study."

MR. VILLACORTA. Just a question, Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Would this amendment of the Gentleman sanction a student who insists on being accepted to a college or university even if he flunked the entrance examination?

MR. OPLE. No, Madam President. His is the freedom of choice. But that does not include the right to insist on being admitted if he has flunked the entrance examination.

MR. VILLACORTA. Another question, Madam President. With the amendment, may a student who is already enrolled insist that he be retained in the university even if he flunked his subjects?

MR. OPLE. No, certainly not, because that would be an abuse of the freedom of choice.

MR. VILLACORTA. Because if the freedom to choose one's profession is guaranteed without any qualification, then somebody who is in medical school but who did not meet the academic requirements of that medical school may invoke this provision and say, "We have the right to choose our profession and no one can infringe upon that right."

MR. OPLE. The freedom of choice may not be imposed especially where the rules are clear, and I think the rules of a university are binding on the students.

MR. GASCON. Madam President, basically, the questions of the chairman are with regard to the proposal to delete. The intent of the issue is that subject to admission and selection requirements, this freedom of choice is directed at the student to realize that when he has that choice to choose his profession or career, he is still subject to the admission and academic requirements of that particular course.

MR. OPLE. Yes. I wanted to help the committee strengthen this principle of freedom of choice which is somewhat vitiated when we have to put a string of qualifications.

MR. GASCON. The point of the Gentleman is that this line is already assumed and it is a basic premise.

MR. OPLE. Yes, exactly.

THE PRESIDENT. Commissioner Rama is recognized.

MR. RAMA. Madam President, I would like to speak against the proposal of Commissioner Ople. His idea is to have two or three sets of ratings, passing grades. For those who live in Manila, he said, higher grades should be required. To those who live in the rural areas, they can pass with lower grades. I do not know if there is any educational system of that sort anywhere in any civilized country because that would be solving the symptom rather than the disease. If people outside of Manila cannot make it, we should not make them pass because they live outside of Manila or they have no better opportunities. The cure there is to upgrade the schools so that they can come up to the standards of education.

In the whole Article on Education, we were emphasizing quality education, and this proposal would be a deterrent to quality education. It would be like the old preposterous laws in Congress where, if one is a veteran and he takes an examination for teachers, because of the gratefulness of the country, he is given an extra seven or ten percent in order to pass. The result was an army of misfits in the educational system, incompetent teachers producing incompetent graduates. We must emphasize quality education and we have to work hard. Instead of trying to solve these symptoms, we have to go to the disease and upgrade the school system outside of Manila because it has been shown that there are schools outside of Manila that produce students far superior to those students produced in Manila in terms of examinations. And if we follow the logic of Commissioner Ople, then we will have to have two sets of gradings for lawyers: lawyers who study in Manila and lawyers who study in the rural areas and who should get only 60 percent. What kind of professionals will we have if we follow the logic of Commissioner Ople?

MR. OPLE. At the time I cited a concrete example of what "equity" can mean in this context, I think the

Floor Leader was not in the hall. But I did point out that in the case of the Philippine Science High School, they actually start with two thresholds – one for those coming from the metropolitan areas and another for those coming from the outer provinces and regions; one begins at 40, the other at 60. After six months, those 40 catch up with those at 60, which probably is a function of the difference in the availability of information facilities between a highly urbanized area and an economically backward traditional area. And I think this experiment in the Philippine Science High School – I owe it to Commissioner Monsod who apparently had followed up this development in the Philippine Science High School – is a kernel of an idea for Congress in the future to consider, but we have to give them the principle. That is why, in connection with the review of the NCEE, we are saying that when Congress does enact the law that will implement the review of the NCEE, they should take account of these differences between highly urbanized and the more remote hinterland areas of the country.

I can agree with Commissioner Rama. There are many bright people in the hinterlands. When they come to Manila, they start with a handicap; but give them just a little time, and they catch up with their city-bred peers. And so, it is this kind of equity that I ask for. We do not need it in Bulacan. Commissioner Rama does no need it in Cebu; but without denigrating Palawan – not Puerto Princesa – I think it is needed in that very long island spanning Luzon and Sabah, and perhaps, Tawi-Tawi and Sulu, and maybe a lot of Mindanao province. It is not a function of the Constitutional Commission now to segregate those areas that should be given a kind of a lower threshold in equity. But Congress, following the experiment in the Philippine Science High School, will be able to proceed farther than that.

So that is my proposed amendment, Madam President, and I submit.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. This is an amendment to the proposed amendment of Commissioner Ople, taking into account the observation of Commissioner Rama. My proposal is to insert the words "REASONABLE AND FAIR" before "admission," and the words "AND RETENTION" after "selection." So the phrase will read: "subject to REASONABLE AND FAIR admission, selection AND RETENTION requirements."

The problem of Commissioner Ople will be taken care of by the words "REASONABLE AND FAIR." Congress may now formulate the necessary guideline for the possibility of giving equitable considerations to graduates of hinterland barangay areas. Because if we provide for his proposal, it is really very counterproductive. Not only is it not promotive of quality education all over, but there is the possibility that students in the urban areas, in order to be able to pass an examination, will enroll now in a rural area in order not to be subjected to the higher qualifications required for urbanized cities.

MR. OPLE. That is probably exacerbating the possibilities, but I could admit Commissioner Davide's proposal if this is applied to the national qualifying examination rather than merely to school level or micro level entrance examinations.

THE PRESIDENT. Is the Davide suggestion acceptable?

MS. ROSARIO BRAID. Madam President, may I just ask one question.

MR. OPLE. May I reply to the Chair. I had proposed to Commissioner Davide, but he was in conference apparently.

MR. DAVIDE. I am sorry, Madam President. May I have it again.

MR. OPLE. Yes. If these qualifications of the entrance examinations can be transposed to the national qualifying examinations from the individual school level, then I will be happy to entertain the amendment to the amendment.

MR. DAVIDE. In which case, we will be constitutionalizing the NCEE. The idea is to, in a very subtle way, provide for the possibility of a review or reassessment of the NCEE requirements.

MR. OPLE. Yes. We do not refer to the NCEE but to a national qualifying examination.

MS. ROSARIO BRAID. Does Commissioner Ople mean that he will have to do away with the NCEE?

MR. OPLE. No.

MS. ROSARIO BRAID. Would his amendment also mean that this is a mandate to improve the NCEE's methods of evaluating native intelligence, coming up with more culturally appropriate methods of assessing the potentiality of, say, a barrio girl in Samar?

MR. OPLE. Yes. It can lead to a very exciting review of various components of the NCEE, including the equity components.

MS. ROSARIO BRAID. Then the more important aspect of this is the methodology of assessment of potential intelligence and capability, rather than providing a differential treatment of those who live in the rural communities and the urban. It is more on improving the tools for evaluation of the NCEE.

MR. OPLE. Yes. If equity can be satisfied short of different thresholds, then I see nothing wrong in Congress going ahead with that.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I was in favor of deleting the provision actually, but my problem is that this talks about the State, and we just said that 85 percent of the tertiary education is private schools. I was wondering whether we should really reformulate this to say: "EVERY CITIZEN HAS THE RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY OF HIS CHOICE, SUBJECT TO REASONABLE ADMISSION, SELECTION OR ACADEMIC REQUIREMENTS AS MAY BE PROVIDED BY LAW."

MR. GASCON. What is Commissioner Davide's position? Is he willing to accept the transposition?

MR. DAVIDE. It is not really a transposition but instead of "RETENTION," Commissioner Monsod substituted it with "ACADEMIC." In short, the last clause will be "SUBJECT TO REASONABLE ADMISSION, SELECTION AND ACADEMIC REQUIREMENTS."

MR. OPLE. Which may also be applicable to national qualifying examinations.

MR. DAVIDE. Certainly, that could be the interpretation.

MR. GASCON. Is it "REASONABLE AND FAIR ADMISSION"?

MR. DAVIDE. Yes, "REASONABLE AND FAIR ADMISSION, SELECTION AND ACADEMIC REQUIREMENTS . . ."

THE PRESIDENT. How about the first portion, Commissioner Monsod, how does it read?

MR. MONSOD. Instead of saying "The State shall not interfere," it will read: "EVERY CITIZEN HAS THE RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY OF HIS CHOICE, SUBJECT TO . . ."

THE PRESIDENT. Instead of "shall not interfere"?

SUSPENSION OF SESSION

MR. MONSOD. Yes, Madam President. I was wondering if we can have a suspension of the session.

THE PRESIDENT. The session is suspended.

It was 6:11 p.m.

RESUMPTION OF SESSION

At 6:14 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

The Acting Floor Leader is recognized.

MR. GASCON. May we request that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. As reformulated, the subsection will read: "EVERY CITIZEN HAS THE RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY OF HIS CHOICE, SUBJECT TO FAIR, REASONABLE AND EQUITABLE ADMISSION AND ACADEMIC REQUIREMENTS, AS MAY BE PROVIDED BY LAW."

MR. OPLE. Before the committee acts, Madam President, may I just ask one question.

Is it the intent of Commissioner Monsod and the committee that the same principles of admission and selection might apply to the review of the national qualifying test, so that they may also take account of interregional equity considerations?

MR. MONSOD. Yes, Madam President.

MR. VILLACORTA. Yes, that is included in the interpretation.

MR. OPLE. Thank you, Madam President.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, I wonder if Commissioner Monsod would be willing to delete the words "OF HIS CHOICE" since he used the word "SELECT" anyway.

MR. MONSOD. It is accepted, Madam President.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Does the last phrase "AS MAY BE PROVIDED BY LAW" call for an act of the legislature? Can it not be by a department circular, a bureau order, or a Ministry of Education circular? There are experts in the Ministry of Education who, I think, are better qualified to judge this than the members of the legislature who are not expert educators. Why do we not just delete "AS MAY BE PROVIDED BY LAW" so that it can be either by law or by department or bureau circular?

THE PRESIDENT. Is that acceptable, Commissioner Monsod?

MR. MONSOD. May I just consult with the other Commissioners?

MR. NOLLEDO. Point of information, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I think the law may provide for a general provision authorizing the Ministry of Education to set forth the standards that can be done. When we talk of law, Madam President, we also talk of circulars issued pursuant to law, or within the competence of the Ministry of Education. So, when we talk of law there, we do not necessarily refer to an act or previous act of Congress. But we do not preclude Congress from passing a law that sets forth the standards under which the provision may be implemented by the Ministry of Education merely through circulars.

MR. RODRIGO. But when it says "AS MAY BE PROVIDED BY LAW," each law meets a legislative act.

THE PRESIDENT. In the report of the committee, there is even no requirement "AS MAY BE PROVIDED BY LAW." So that as worded, this would include what Commissioner Rodrigo says that it can be from the Ministry of Education or from the legislature.

MR. NOLLEDO. That is correct.

MR. RODRIGO. Why do we not delete "AS MAY BE PROVIDED BY LAW"?

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. In view of the manifestation of Commissioner Rodrigo that deleting the phrase would mean it may be by law or by regulations of the ministry, we accept the amendment of Commissioner Rodrigo.

MR. RODRIGO. Thank you.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. May we ask Commissioner Davide who made the proposal to include "REASONABLE AND FAIR" to please explain the meaning of "reasonable and fair," in addition to the manifestation of Commissioner Ople which has something to do with equity.

MR. DAVIDE. The word "equitable" is already included in the proposed reformulated amendment. So, it is "FAIR, REASONABLE AND EQUITABLE . . . REQUIREMENTS." "REASONABLE" simply means that it should be consistent with the right of a student. In other words, the law should not impair or impede that particular right.

MR. BENNAGEN. Thank you, Madam President.

MR. VILLACORTA. The committee accepts the Monsod amendment.

Madam President, may we ask for a vote?

THE PRESIDENT. Commissioner Monsod will please read the amendment.

MR. MONSOD. Madam President, the amendment states: "EVERY CITIZEN HAS THE RIGHT TO SELECT A PROFESSION OR COURSE OF STUDY, SUBJECT TO FAIR, REASONABLE AND EQUITABLE ADMISSION AND ACADEMIC REQUIREMENTS."

VOTING

THE PRESIDENT. As many as are in favor of this proposed amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 26 votes in favor and 1 against; subsection (d), as amended, is approved.

MR. VILLACORTA. Madam President, the committee has been significantly depleted and the request of the remaining Members is that we adjourn because we are all exhausted and we still have to meet after this. Would it be possible for the session to adjourn for the day?

THE PRESIDENT. What is the pleasure of Commissioner Maambong?

MR. MAAMBONG. Before we take that up, since we have approved subsection (d), may I know from the committee if the committee is willing to have this transposed to Section 1, considering that it does not really belong to Section 1. Actually, this properly belongs to the jurisdiction of the Subcommittee on Rubrics of the Committee on Sponsorship but I want the concurrence from the Chair before we do anything.

MR. VILLACORTA. To what section will it be transferred, Madam President?

MR. MAAMBONG. It will be transposed to Section 1 because it should properly belong to Section 1.

MR. VILLACORTA. There is no strong objection to that, Madam President.

MR. MAAMBONG. Thank you.

ADJOURNMENT OF SESSION

THE PRESIDENT. The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:21 p.m.

R.C.C. NO. 78

Tuesday, September 9, 1986

OPENING OF SESSION

At 10:00 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Francisco A. Rodrigo.

Everybody remained standing for the Prayer.

PRAYER

MR. RODRIGO. Tulungan Mo Kami, Diyos
naming Ama,
Na matuklas namin ang pagkakaisa
Sa aming magusot na pagkakaiba
Sa paraang wasto't maka-demokrasya.

Sa mainit naming mga pagtatalo
At sa mahigpitang labanan sa boto,
Ang tangi po sanang tunay na manalo
Ay kung alin lamang ang tama't totoo.

Ang amin po sanang kutod na isipan
Ay pasulyapin Mo sa kinabukasan,
Upang makayari ng pampalagian
Na Saligang Batas nitong mutyang Bayan.

Ito sana'y maging talang maluningning,
Katulad ng talang sumikat sa Belen,
Na tataluntunin nitong Bayan namin
Hanggang makarating sa banal Mong piling.
Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present*
Azcuna	Present*
Bacani	Present
Bengzon	Present*
Bennagen	Present
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present*
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present
Maambong	Present*
Monsod	Present*
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present
Suarez	Present*
Sumulong	Present
Tadeo	Present*
Tan	Present
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present*

The President is present.

The roll call shows 32 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

BISHOP BACANI. Madam President, is this the proper time to ask for a clarification on an entry in the Journal?

THE PRESIDENT. We can have it later when we take up the approval of Journal.

BISHOP BACANI. Thank you, Madam President.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

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*Appeared after the roll call

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, before we approve the Journal, I just like to make a clarification for the record. On page 19, Commissioner Regalado clarified for the record that the transposition of the phrase "unless otherwise provided by law" would not mean that Congress would hereafter allow foreign religious orders or foreign citizens to establish educational institutions contemplated in the provision. May I ask Commissioner Regalado whether or not by these statements he means that unless Congress provides otherwise, then the status quo of the 1973 Constitution remains.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Thank you, Madam President.

I explained yesterday that because we are considering the 1973 constitutional provisions, the status quo remains until such time that Congress provides otherwise, specifically in the matter of ownership. That is exactly what it means, not that Congress will automatically allow or disallow the entry here of foreign religious orders but that it is still up to Congress to deliberate on the matter.

BISHOP BACANI. I thank Commissioner Regalado very much.

MR. RAMA. Madam President.

THE PRESIDENT. Is this a comment on the Journal?

MR. RAMA. Yes, Madam President. I took this up precisely with the chairman of the committee for it seems that there is really an error in the phraseology of this provision because it could lead to interpretations contrary to the intent of the committee and the body. Therefore, I have asked the committee to allow me to rephrase this in order that it will be very clear.

When we say "unless otherwise provided by Congress, educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens," from the legal point of view or legal construction, it would allow Congress to restructure the capitalization equity even to 100 percent alien, because the phrase says "unless otherwise provided by Congress."

So there is a need to rephrase this provision, Madam President, which we will take up later during the period of amendments.

APPROVAL OF JOURNAL

THE PRESIDENT. In other words, subject to whatever reservations there may be on page 19, with particular reference to the second paragraph, we can proceed to approve the Journal of yesterday's session.

There being no other comment or manifestations, the Journal of yesterday's session is approved subject to the reservation that has been indicated.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Philip S. Tuazon of Maritime Industry Authority, PPL Building, U.N. Avenue, Metro Manila, submitting a proposed constitutional provision on maritime industry, to wit: "The State shall encourage and promote the growth and development of its maritime industry in the interest of the national economy."

(Communication No. 783 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Panfilo J. Espina of 2480 Radium Street, Sta. Ana, Manila, suggesting that a provision on "proper ethics" be included in the new Constitution.

(Communication No. 784 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from 41 employees of the Bureau of Telecommunications, Regional Office No. I, suggesting various amendments to be incorporated in the proposed provision on civil service.

(Communication No. 785 – Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from former MP Jeremias U. Montemayor of the Federation of Free Farmers, 41 Highland Drive, Blue Ridge, Quezon City, transmitting a copy of an article entitled: "Charter Draft Will Worsen Judicial Backlog," hoping that it will help improve the draft of the new Constitution.

(Communication No. 786 – Constitutional Commission of 1986)

To the Committee on the Judiciary.

Communication from Mr. Benjie C. Pepito, Executive Director, Movement for the Recognition and Enrichment of Philippine Ethno-Linguistic Groups (REPEL), Narra, U.P. Diliman, Quezon City, submitting a proposal on Staggered Federalization for the consideration of the Constitutional Commission.

(Communication No. 787 – Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Ms. Elsie A. Corpuz of the Immaculate Conception Prayer Group, 163-E Mendiola, Manila, proposing an amendment to Section 19 of the proposed Article on Education, Science, Technology, Arts, Culture and Sports under Committee Report No. 29.

(Communication No. 788 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 28 members of Iglesia Filipina Independiente, Norala, South Cotabato, requesting the Constitutional Commission to retain the provision of the 1973 Constitution on the separation of the Church and State.

(Communication No. 789 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from former MP Jeremias U. Montemayor of the Federation of Free Farmers, 41 Highland Drive, Blue Ridge, Quezon City, transmitting a copy of an article entitled: "The Constitutional Commission's Slip Against Labor" which also represents the position of the Federation of Free Farmers (FFF), the National Congress of Farmers Organizations (NCFO) and the Trade Union Congress of the Philippines (TUCP).

(Communication No. 790 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Jose A. Lopez, Sr., Regional Director, Ministry of Information, Region IX, Zamboanga City, transmitting a copy of the August 21, 1986 issue of the *People's Review* and a copy of the resolution informing the Constitutional Commission that Zamboanga City elects to be excluded from the so-called Autonomous Muslim Mindanao for various reasons, notably the term of the Tripoli Agreement under which the granting of said autonomy is based.

(Communication No. 791 – Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from Mr. Perfecto Tamayo, President of Church Women United, Iloilo Chapter, Iloilo City, seeking inclusion in the Constitution of a provision on equal wages for the same kind of work, equal opportunities for promotions and professional development, the nondeterrence of marriage in women's rights to own and control property, nondiscriminatory education, mutual determination of management and disposal of conjugal properties, mutual consent on major decisions affecting the family, equal responsibility in the caring for children and the home, fair maternity benefits and social services for the upbringing of children.

(Communication No. 792 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from 60 signatories from Laguna, Batangas and San Pablo City enumerating the rights and responsibilities of parents in the rearing of the youth for consideration by the Constitutional Commission.

(Communication No. 793 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Felixberto M. Serrano submitting, for the consideration of the Constitutional Commission of 1986, his "Comments on the new Constitution on Citizenship and Bill of Rights," and suggesting that social and economic rights be added as an essential complement to the civil and political rights.

(Communication No. 794 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from 85 inter-denominational members of Evangelical Christian Churches, 92-A Barangay Carmen, Ozamiz City, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 795 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Acting Governor Jose D. Lina, Jr. and 17 other acting city and municipal mayors of Metropolitan Manila, suggesting the retention of Metropolitan Manila as a geopolitical subdivision of the country.

(Communication No. 796 – Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter seeking to incorporate in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

(1) One hundred three students of the University of the Philippines, Diliman, Quezon City

(2) Thirty-five residents of Malalag, Davao del Sur

(3) Mr. Cesar B. Cayamanda
San Pablo Council 3468
Knights of Columbus
San Pablo City

(Communication Nos. 797, 798 and 799 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we continue the consideration on Second Reading of the proposed Article on Education, Science, Technology, Arts and Culture.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Human Resources are requested to please occupy the front seats.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 10:18 a.m.

RESUMPTION OF SESSION

At 10:27 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. After conferring with the committee, we have agreed that there must be a correction on Section 4(a) for the simple reason that as phrased now, it could yield to interpretations contrary to the intent of the committee and the body. This particular provision reads:

> Unless otherwise provided by Congress, educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens.

This is the particular sentence affected. In other words, since the phrase "unless otherwise provided by Congress" heads off the whole sentence, it can be interpreted or, in fact, the legal interpretation would be that Congress can disturb this phrase "shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens."

In order to avoid this misinterpretation, Madam President, we decided to be more specific and to rephrase the whole sentence in this manner: We delete the words "unless otherwise provided by Congress," so the whole sentence will now read: "Educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens." After "citizens," we add the words "UNLESS CONGRESS INCREASE THE MINIMUM FILIPINO EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS." This will reflect the intent of the committee and the body which was defined very clearly that it should not decrease the Filipino equity but Congress may increase it. So this is more definitive.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. As suggested by Commissioner Bernas, perhaps instead of using the word "unless," we might use the word "UNTIL."

MR. RAMA. Yes, the word is "UNTIL."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Will the proponent yield to some amendments in order to reverse the emphasis? Can we say "THE CONGRESS SHALL REDUCE THE FOREIGN EQUITY," so it will emphasize the importance of Filipino participation, that it could never be reduced but we can reduce the foreign equity?

MR. RAMA. I think there is no problem there, Madam President. We accept the amendment.

MR. RODRIGO. Madam President.

THE PRESIDENT. Just for a clarification. In effect, Commissioner Rama is moving for a reconsideration of the approval of this particular section.

MR. RAMA. Yes, Madam President. I am asking for a reconsideration of the approval of this particular section just to make the proper correction which is not substantial. It is not a correction of substance but of form.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Madam President, I think it is understood that Congress may not decrease but may increase the Filipino participation because of the words "at least." I was the one who proposed the insertion of the words "at least." — ". . . at least sixty *per centum* of the capital of which . . ." That means the sixty percent cannot be reduced, but it may be increased.

MR. RAMA. But the phrase "unless otherwise provided by Congress" opens the whole provision to revisions by legislation.

MR. RODRIGO. Precisely, Madam President.

MR. RAMA. Congress may say: "At least eight or forty percent of the capital should belong to the citizens." That is the effect of this blanket provision "unless otherwise provided by Congress."

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. I agree to the deletion of the words "unless otherwise provided by Congress." But why do we add "UNLESS CONGRESS INCREASES" when it is understood that "at least" means that the sixty percent cannot be reduced but it may be increased by Congress?

MR. VILLACORTA. Madam President, the committee would like to ask for a vote now because we have many other subsections to discuss.

MR. RAMA. Madam President, may I ask for a suspension of session?

MR. RODRIGO. No, I can withdraw my objection, Madam President.

MR. RAMA. This amendment merely aligns itself to the intent of the committee.

MR. RODRIGO. So how does Section 4(a) read now?

MR. RAMA. Madam President, I propose to delete the whole phrase "unless otherwise provided by Congress" because it opens the floodgates.

The section starts with: "Educational institutions other than those established by religious orders, mission groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens UNLESS CONGRESS INCREASES THE MINIMUM FILIPINO EQUITY IN EDUCATIONAL INSTITUTIONS OWNED BY CORPORATIONS."

MR. RODRIGO. That is what I call a surplusage, but in order to save time, I withdraw my objection.

MR. RAMA. Commissioner Bernas is asking recognition.

THE PRESIDENT. Is there any objection that we reconsider the approval of Section 4(a)?

MR. GASCON. Madam President.

THE PRESIDENT. Does the Commissioner object to the reconsideration?

MR. GASCON. Are we changing the intent of the section, Madam President?

THE PRESIDENT. Not yet, Commissioner Gascon.

Is there any objection that we reconsider the approval of Section 4(a)? *(Silence)* The Chair hears none; the motion to reconsider is approved.

With respect to the proposal of Commissioner Rama, we will ask Commissioner Regalado about it because he was the one who introduced said proposal which is now open again. Does the Commissioner have any objection?

MR. REGALADO. I have no objection, Madam President. As a matter of fact, I already suggested a mere rephrasing to make the phraseology reflect the intent and to avoid possible misinterpretations.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, I think the confusion comes from the fact that we really have a special rule for schools established by religious orders, and perhaps a recasting which clearly separates them from the rest would help clarify the intent. Let me try out this statement: "Educational institutions shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, PROVIDED THAT THIS RULE DOES NOT APPLY TO EDUCATIONAL

INSTITUTIONS ESTABLISHED BY RELIGIOUS ORDERS, RELIGIOUS GROUPS AND MISSION BOARDS, UNTIL CONGRESS PROVIDES OTHERWISE."

MR. RAMA. It does not reflect the intent of the committee, Madam President.

FR. BERNAS. It does, Madam President, because first of all, we preserve the requirement that if the school is owned by an individual, the individual must be a citizen. If the school is owned by a corporation other than a religious corporation, then the Filipino capital must be at least 60 percent. It can go up anytime. So we are only left with religious schools. We preserve the present rule until Congress provides otherwise.

SUSPENSION OF SESSION

MR. RAMA. Madam President, there is another formulation from Commissioner Monsod, I ask that we suspend the session for two minutes.

THE PRESIDENT. The session is suspended.

It was 10:38 a.m.

RESUMPTION OF SESSION

At 10:44 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. VILLACORTA. Madam President, I think Commissioner Monsod has the compromise formulation.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We propose Madam President, that the sentence should read: "CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS." This is reformulated by this Representation, Commissioners Rama, de Castro, Guingona, Villacorta, Davide, Maambong, Bernas and Foz.

THE PRESIDENT. So how will the whole section read now?

MR. MONSOD. The whole section will read: "Educational institutions other than those established by religious orders, mission groups and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens. CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS.

The control and administration of educational institutions shall be vested in citizens of the Philippines."

MS. QUESADA. Madam President, before we approve the new formulation, could we just seek clarification from Commissioners Monsod and Regalado? This is with regard to the change of some phrases like "mission groups." The original committee recommendation was "religious orders, missionary boards, charitable organizations." Will "mission groups" also refer to "foreign mission" of foreign investors, like the Middle East wanting to set up a school in Mindanao for Muslims? Is it religious mission groups? We want a clarification, because yesterday I heard Commissioner Alonto say that Muslims do not have religious orders but they have mission groups. So just for the record, what does this "mission groups" exactly refer to?

FR. BERNAS. Madam President, I think the Journal does not reflect the text that was actually approved yesterday. The text said "religious groups" precisely to accommodate Muslims, mission boards and so forth.

MS. QUESADA. I remember we approved yesterday "religious groups" instead of "mission groups" because it could have another meaning and we might open the floodgates to foreign missions to come in and set up educational institutions. So for the record, could we then delete "mission groups" and substitute it with "RELIGIOUS GROUPS"?

Madam President, this is just a correction to reflect the intent of the amendment yesterday.

THE PRESIDENT. So how will the phrase read now, Commissioner Quesada?

MS. QUESADA. It will read: "RELIGIOUS GROUPS and mission boards."

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. May we clarify some points with the Honorable Monsod regarding his proposal, Madam President?

I take it that when the Commissioner provides that Congress may require increased Filipino participation in all educational institutions, he has in mind not only corporations or associations at least 60 percent of the capital of which is owned by Filipinos but also, as now amended by the Honorable Quesada, religious groups and mission boards. Is my understanding correct?

MR. MONSOD. Yes, the Commissioner is correct. That is precisely the reason this clarification was sought.

MR. SUAREZ. When we speak of increased Filipino participation, that means there is already an existing interest in those educational institutions. But in the case of religious groups and mission boards, it is contemplated under the first sentence that they may be owned 100 percent by foreigners. What for are we talking about increased Filipino participation, Madam President?

MR. MONSOD. If it is zero, then we increase it from zero to any percentage we want.

MR. SUAREZ. And the Commissioner considers that within the phrase "increased Filipino participation," notwithstanding the fact that it starts from zero participation.

MR. MONSOD. Yes, Madam President.

MR. SUAREZ. I thank the Commissioner for the clarification, Madam President.

SR. TAN. Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. We changed "religious orders" to "RELIGIOUS GROUPS," and I understand why. But I think it is rather dangerous because that would include the religious sects. What makes a group religious? Therefore it would include the suicide groups, the Tadtads, because we changed it to "RELIGIOUS GROUPS." "Religious groups" means any group of people bound together by relationship with God.

FR. BERNAS. No. We wanted to use the word "groups" in order to accommodate the Muslims. This was upon the intervention of Commissioner Alonto because he said we have religious schools in the Muslim areas, but we do not have religious orders. So it means any legitimate religious groups. But whether or not the Tadtads or the suicide groups will be allowed to set up schools, that is another question.

SR. TAN. Yes. But how can we say this now when all kinds of people are claiming that they are religious groups?

FR. BERNAS. On the other hand, how are we to deny a group that claims it is a religious group?

SR. TAN. Yes, that is the point. So "RELIGIOUS GROUPS" is rather too general.

FR. BERNAS. Does the Commissioner have another suggestion?

SR. TAN. No, I was just stunned when I heard the phrase "RELIGIOUS GROUPS." I would think more of orders and then something for the Muslims, so it is just confined to that, just plain religious groups, like the ULK.

THE PRESIDENT. How about "religious orders and groups, mission boards"?

SR. TAN. Maybe we could just put it in the record because we have in Mindanao religious groups committing all kinds of massacre.

FR. BERNAS. But they do not have schools.

MR. SARMIENTO. Madam President, may I address one question to the principal author and the coauthors of the amendment? Will Commissioner Monsod yield to one question?

THE PRESIDENT. The Commissioner may, if he so desires.

MR. MONSOD. Yes, gladly.

MR. SARMIENTO. The amendment reads: "CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS." Madam President, did the Commissioner and the coauthors of this amendment contemplate the possible situations when Congress may increase Filipino equity participation? Will the Commissioner give us the instances when Congress may increase Filipino equity participation in educational institutions?

MR. MONSOD. I think Commissioner Suarez already tried to address himself to that question. This would cover the right of Congress not only to increase the 60 percent Filipino participation but also to increase said participation from zero in educational institutions owned by religious orders.

MR. SARMIENTO. For reasons of public interest and common good?

MR. MONSOD. I guess that permeates the entire Constitution – that this is for public interest, Madam President. But Congress may invoke public interest, general welfare or anything for the common good.

MR. SARMIENTO. I thank the Commissioner, Madam President.

MR. RAMA. Madam President, the body is now ready to vote on all the interpretations and clarifications.

THE PRESIDENT. May we have the reformulation again.

MR. MONSOD. Madam President, it would read: "Educational institutions other than those established by RELIGIOUS GROUPS and mission boards shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens. CONGRESS MAY HOWEVER REQUIRE INCREASED FILIPINO EQUITY PARTICIPATION IN ALL EDUCATIONAL INSTITUTIONS.

The control and administration of educational institutions shall be vested in citizens of the Philippines."

VOTING

THE PRESIDENT. As many as are in favor of this particular amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 33 votes in favor, none against and 1 abstention; Section 4(a), as amended, is approved.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized to propose an amendment to Section 5(a).

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, the amendment is to delete Section 5(a) which involves lines 19 to 22. The reason is that this is already included, directly or indirectly, in the mandate to "establish, maintain and support a complete, adequate and integrated system of education." If it is integrated, necessarily the regional and sectoral needs and conditions would have to be taken into account. It is inherent in the concept of integration. And insofar as the involvement of the respective representatives in policy planning is concerned, that is also included in the very concept of "complete, adequate and integrated system of education."

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. We have a committee amendment for the second part, so may I read the entire section with this amendment: "In the formulation of educational policies, the State shall take into account regional and sectoral needs and conditions. AND SHALL ENCOURAGE LOCAL PLANNING IN THE DEVELOPMENT OF EDUCATIONAL POLICIES AND PROGRAMS."

The second sentence implies the encouragement of decentralized planning at the local level, especially with our thrust on decentralization or local autonomy which is not quite captured in the original phrase. So we would like to request Commissioner Davide to consider this amendment in his proposal to delete the section.

MR. DAVIDE. Madam President, in the matter of administrative decentralization, the Article on Local Government already adequately provided for that. As a matter of fact, it is on a regional basis, not only sectoral. We actually constitutionalized these regional development councils and involved not only the different sectors but also the local governments within the region. This will cover not only education but all matters pertaining to administration. So we feel that this proposed subsection is already fully covered by not only the concept of an integrated system of education but also by the provision on administrative decentralization.

MR. GASCON. Madam President, it seems that it is clear to the Commissioner and me that the intent of Section 5(a) is to encourage decentralization and to develop schools which are responsive to regional and sectoral needs.

MR. DAVIDE. That is already covered by the proposal in the Article on Local Government.

MR. GASCON. However, Madam President, we differ in the sense that his proposal is to delete.

MR. DAVIDE. Yes, because it is already sufficiently covered.

MR. GASCON. However, the committee feels that in order to emphasize the need for greater decentralization and for the creation of schools responsive to local needs, the section should be retained. So we would like to put it to a vote, but we agree to the principles, Madam President.

MR. DAVIDE. The committee does not accept the proposal. We ask for a vote on the proposal because Section 5(a) is already included in the concept of a complete, adequate and integrated system, and insofar as decentralization is concerned, we already have the corresponding mandate in the Article on Local Government.

THE PRESIDENT. So the proposal of Commissioner Davide is to delete Section 5(a).

MR. DAVIDE. Yes, Madam President.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. May I speak in favor of retaining the section. In the public hearings that we attended, many of the teachers argued for participation in the planning of educational programs, including writing of textbooks because they feel that a highly centralized educational system does not respond to the regional needs. And it seems to me that Section 5(a) will underscore that desire of the local teachers and educators to participate in planning educational programs proper for their area.

Thank you, Madam President.

MS. ROSARIO BRAID. Madam President, may I add. In our public hearings, we heard many sectors articulate the need to elect or select their own school superintendents rather than have them selected by the centralized office. This has been going on and they felt that the lack of appropriate mechanisms for listening to their complaints so that they have to go to the centralized office makes it even more necessary to give them the autonomy to select their own local officials to whom they can freely go for their problems. So among other things, it is the presence of their own elected or selected education officials; second, to ensure that the diverse needs of each region be attended to in the curriculum planning; and third, to ensure that these innovations in terms of employment and planning boards between industry and schools could be better met through more decentralized policy development.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:09 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, there has been a meeting of the minds. I ask that the committee chairman be recognized regarding this particular section.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, taking into account the point raised by Commissioners Davide and Monsod, the committee has condensed its proposal which is now acceptable to the two Commissioners. Section 5(a) would now read: ". . . the State shall take into account regional and sectoral needs and conditions AND SHALL ENCOURAGE LOCAL PLANNING IN THE DEVELOPMENT OF EDUCATIONAL POLICIES AND PROGRAMS."

This is a shortened version of the committee proposal.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. For the record, we are accepting it as a substitute amendment.

MR. VILLACORTA. May we ask for a vote on this proposal, Madam President?

VOTING

THE PRESIDENT. As many as are in favor of Section 5(a), please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 28 votes in favor, none against and 1 abstention; Section 5(a) is approved.

MR. RAMA. Madam President, I ask that Commissioner Colayco be recognized to amend Section 5(b).

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Thank you, Madam President.

Section 5(b) says that it is mandatory for all educational institutions at all levels to form multisectoral bodies composed of students, faculty, parents, nonteaching staff, administrators and other representatives to participate in the formulation of school policies and programs. I propose to the committee the deletion of this section.

MR. VILLACORTA. May we know the reason of the Commissioner.

MR. COLAYCO. These are my reasons: In the first place, we have just approved the authority of the State to decide matters involving the formulation of school policies and programs. Consequently, the State, through the Ministry of Education, can take care of all these matters mentioned in Section 5(b). I am not against the participatory interaction among the board of trustees or the operators of the school and the students and other persons involved, like the parents. But requiring the school to consult with the sectors mentioned in the proposal in all matters referring to school policies and programs – this may involve curriculum disciplinary matters, other areas of school education, running and operation – would, in effect, throw the management to all these sectors mentioned. Besides, there may be no uniformity in policies.

Let me give the Commissioners two instances which, I believe, have shown the abdication by school authorities for fear of these pressures. I was once called, about ten years ago, to a meeting of parents of students in a certain school, where this problem was thrown to us: Shall the school allow the high school students to smoke in the school premises? I stood up and objected to the question. I said, "We sent you our children and while they are in the school premises, they are subject to your discipline, therefore, do not throw the question back to us. You know smoking is bad for the health. There should be more than sufficient reason for you to say, 'No smoking at least in school grounds.' " But, unfortunately, my objection was overriden by many students who were smoking during the meeting.

Another thing, every time graduation comes around, especially in schools for women, the problem of where they will hold the graduation party or rites arises. Always, the rich parents would stand up and say: "We want our children to have everything that we ourselves did not have." So it was only poor Mrs. Colayco and a sprinkling of others in the meeting who stood up to object to that. We said: "What is wrong with holding the school rites and the graduation program and party in the school premises? In this particular school, the grounds are pretty ample." The college auditorium was more than sufficient and yet we would always be defeated by parents who wanted to give their children everything that they wanted. It is because of these pressures that our school authorities now are afraid to act even on matters which pertain to them, like discipline and curriculum. I do not think we should allow for instance, non-teaching staff to also participate. This includes everybody. and everybody would have his reasons.

I am, therefore, proposing that Section 5(b) be deleted or, at any rate, be amended, although I am not at this time ready to submit the proper amendment in view of the fact that we have just expressly recognized the right of the State to participate in the formulation of school policies and programs. I believe that the State, through the Ministry of Education, is more competent than the various sectors or bodies mentioned in Section 5(b).

MR. RAMA. Madam President.

THE PRESIDENT. Commissioner Rama is recognized.

MR. RAMA. We would like to hear the other comments on the same subsection before we suspend the session or proceed to a vote. Commissioner Davide requests recognition regarding this subsection.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

I am not for the entire deletion but only for a reformulation of the proposed subsection. I do not know whether after this reformulation Commissioner Colayco would decide otherwise. We will not mandate the educational institutions nor require them to form multisectoral bodies. So the subsection will only read as follows: "All educational institutions shall PROVIDE CONSULTATIVE MECHANISMS for students, faculty MEMBERS, parents, non-teaching staff and administrators in the formulation of school policies and programs."

MR. VILLACORTA. Madam President, the Commissioner's proposal is accepted by the committee, but we are afraid that Commissioner Colayco did not hear the Commissioner's amendment. Could he kindly repeat it?

MR. DAVIDE. It reads: "All educational institutions shall PROVIDE CONSULTATIVE MECHANISMS for students, faculty MEMBERS, parents, non-teaching staff and administrators in the formulation of school policies and programs."

MR. GASCON. Madam President, what does the Commissioner mean by "CONSULTATIVE MECHANISMS"?

MR. DAVIDE. We have consultative mechanisms in the Article on Social Justice. This is practically the same. The parents and the students may organize themselves into an association and the educational institution will consult them. We do not mandate the educational institution to establish these multisectoral bodies, but we leave the freedom to the students and the faculty members, and the educational institutions will consult them.

MR. RAMA. Madam President, Commissioner Sarmiento would like to comment on that.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, I am not for the deletion of the subsection. I see its wisdom — democracy in action in all educational institutions. My proposal is a reformulation and I would like to share this with the committee for its consideration. It reads: "All educational institutions shall be required to form CONSULTATIVE bodies composed of students, faculty, parents, non-teaching staff and administrators to participate in the formulation of school policies."

MR. GASCON. Madam President, first and foremost, I believe Commissioners Davide, Sarmiento and the committee are in a meeting of minds, in the sense that the main idea of Section 5(b) is to democratize schools in the different levels of policy-making. In fact, I believe the Commissioners' proposal is not that far and I suggest that maybe we could suspend the session for a few minutes so that we can harmonize all of the proposals.

THE PRESIDENT. Before we do that, are there any other comments?

MR. RAMA. There are other comments, Madam President. Commissioner Suarez has registered to comment on Section 5(b).

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

I would just like to clear up one point because there are two schools of thought emerging: that of Commissioners Davide and Sarmiento and that of the committee. The committee practically would like these multisectoral bodies to participate in the formulation of school policies; whereas, Commissioners Davide and Sarmiento are thinking of only consulting these bodies in the formulation of school policies and programs.

So may we know from the committee what is the exact thrust they have in mind? Does the committee want these multisectoral bodies to actively participate in the formulation of school programs and policies?

MR. VILLACORTA. Yes, Madam President, our intention is to involve the community. This is a new trend in education in more educationally developed countries in the world – that the learning process is not just the obligation of the school; it involves the participation of parents, teachers, employees and faculty of the school, as well as the students themselves.

So the intention of the committee is for active participation, active involvement. But as we had manifested, we are open to the suggestions of Commissioners Davide and Sarmiento.

MR. SUAREZ. What the Commissioners are practically suggesting, Madam President, is that these multisectoral bodies should only be consulted.

MR. GASCON. No, that is not the proposal of the Commissioners, Madam President. They are not saying that these bodies should only be consulted. What is established first is the basic premise of democratic consultation and participation in whatever form that may be. Perhaps, it could be consultative mechanism or other forms where they even have to vote.

I think the proposal of Commissioners Davide and Sarmiento does not preclude any situation in the future where the various sectors could even be represented, as the law may provide, in official policy-making bodies. The proposal must first provide for consultation but not necessarily only that.

MR. SUAREZ. In other words, if I get the Commissioner clear, these bodies would really take part in the formulation of the school policies?

MR. GASCON. They may or they may not. The first premise is to assure consultation and democratic participation and then to open the venue for Congress to provide a law for more direct participation in official policy-making by these sectors. The Congress may provide for that in the long run.

As I have said in the period of interpellations, at this point, there is a law passed before martial law, where the students are represented officially in the board of regents of the University of the Philippines. The students have a vote in the board of regents. At present, in the Mindanao State University, there is a move towards providing students and teachers representation in the board of regents and in other boards of trustees. So this is not foreclosed. We are not saying, at this point in time, that this shall be imposed but Congress may provide a law.

MR. SUAREZ. So it is clear that the committee will not stop at the level of democratic consultation. But will the committee even go further than that?

MR. GASCON. This statement could simply mean that a committee will be formed where there are different sectors to discuss how the curriculum could be improved. There is no need for too much red tape and voting on that, for example, in a particular department, college or institute. Or, it could also take the forms of larger multisectoral consultative committee defining thrust for the year. The whole point, Madam President, is to encourage the schools to make sure that the different sectors in the academic community are consulted and encouraged to participate. It could take more firm forms and official bodies, as in the board of trustees or board of regents, as the law may provide.

MR. SUAREZ. I thank the Commissioner, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Bacani be recognized.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Thank you very much, Madam President.

First, I subscribe to the ideal set down under Section 5(b). I think it is an ideal which the schools should work for but not something to be mandated by the Constitution. For example, in the previous section, we already set down that regarding the making of policies of educational institutions in the different regions, the different regional sectors should be consulted. I think this is a matter for such consultation because in different regions in the Philippines, there are different levels of development and patterns of authority. Hence, to mandate outrightly such a thing as this in the Constitution would not make room for sufficient flexibility. If we are to adapt to the different regions, we should not prescribe something like this which the different regions themselves may not immediately want, and which may not even be implementable.

In Zambales, we have elementary schools for the Aetas. I remember the great difficulty of the teacher of these Aeta children just to keep them attending the class, especially when it rained and when it was time for planting. Under such circumstances, there was a more basic work to do. But here, we are mandating all educational institutions in all levels to form multisectoral bodies. So I am satisfied with the provision of Section 5(b).

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I would just like to be clarified on the intention of the committee regarding Section 5(a). Democratization is an ideal, but since the committee seems to be very ambiguous in its notions of consultative and participatory task forces or committees, it might, when misapplied, bear upon the integrity of the leadership in any educational institution. When the committee says, for example, that it contemplates a participatory mechanism, does it mean that a task force has to be absorbed in the policy-making body of that institution?

MR. GASCON. No, not necessarily, Madam President.

MS. AQUINO. That is my problem, the absence of a definitive and decisive definition of the domain of this consultative and participatory mechanism.

MR. VILLACORTA. Madam President, the participation which the commitee is contemplating ranges from mere consultation to direct participation. We would be open to amendments to make this intention of the committee clearer. Therefore, we ask for a two-minute suspension so that we can accommodate the different suggestions.

MS. AQUINO. Just one query before the suspension. On the domains of participatory and consultative mechanism, does it include, for example, the determination of tuition fee increases?

MR. GUINGONA. Madam President, this is my reaction to the question. When we use the word "consultation," we are using it in its accepted meaning. When we speak of other forms of participation which have been mentioned here and to which I agree, in my opinion, these other forms of participation should not be imposed on the school but should be encouraged and become implementable only with the acceptance and approval of the school.

MR. GASCON. Madam President, in response to the Commissioner's direct question, when it comes to the issue of determining tuition fee increases, the minimum requirement is prior consultation with the parents.

MS. AQUINO. I agree with the Commissioner. What about the increase in the salary of the academic and nonacademic personnel? What about the questions of student activism and militarization of the university?

MR. GASCON. But then, Madam President, the minimum requirement is that there should be consultation and participation among the different sectors in the academic community. Just to emphasize this, let me quote from the former Education Minister Onofre D. Corpuz in his sponsorship speech of the Education Bill:

> . . . to establish and stress among our people the idea that those who constitute a community are bound by shared interest and purposes, rather than confronting each other in adversary relationships.

The truth which this bill stresses is that the community of interest that binds schools and students together is more basic and enduring than the monetary conflicts that separate them. Mr. Corpuz' emphasis as the Education Minister is that we should encourage genuine cooperation and coordination among the sectors so that conflict is minimized.

Just to make it clear, Madam President. We do not mandate that there should be formal multisectoral bodies which are the policy or decision-making bodies in the university or in the college, because there are charters which guide these institutions. What we are saying is that an informal situation sometimes can be encouraged and this is being done already. It could range from simply creating an informal consultative mechanism and committees. It could be the consensus of the whole community to make amendments to the charter to make it official, but that decision will be done by the academic communities themselves.

At present, there is a move to change the charter in MSU to provide for teachers and students being represented in the board of regents. In UP there is now a move not only to have one student regent, but to form student regents. These are moves but these cannot be implemented just like that by this constitutional provision. What it only says is that there should be different forms of consultation.

MS. AQUINO. Madam President, I was contemplating a formulation of an umbrella provision that would leave room for flexibility in the evolution of this kind of a system. My worry is that when we try to define it in the terms of a multisectoral body composed of students, and so forth and so on, this will actually bear upon the possibility of a full fruition of the process which will evolve into a democratization of the entire educational system.

MR. GASCON. Madam President, I think the intent is clear and we will be amenable to any amendments.

MR. VILLACORTA. Madam President, to shorten the proceedings, the committee would like to entertain proposals from Commissioners Aquino, Bernas, Bacani, Sarmiento and Davide.

MR. RAMA. Madam President.

THE PRESIDENT. Can we recognize Commissioner Bernas first?

FR. BERNAS. Yes, because I think there is an anterior amendment to delete the entire paragraph. But, I would like to say a few words in support of the deletion, because if we delete this paragraph, then we will not have to suspend the session just to discuss it.

First of all, I see this provision as a very detailed regulation of schools asking them to make "multisectoral bodies for purposes of consultation and formulation in order to achieve greater democracy in the running of the schools." To impose on schools a very detailed regulation affecting the day-to-day life of the school without consulting these schools on how it will affect the role of the board of trustees, or of the existing councils in schools – just to say this concept outright that they shall do these – would seem to be premature. I would rather rely much on the General Provisions we have approved which says:

> The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

So, in order to allow for the evolution of a better process of regulation and for the evolution of a more effective process of democratization, I would propose that we state that "general empowerment of the State to supervise," and then allow the State to encourage the evolution of various methods of consultation or sharing in that decision-making process without imposing this obligation right off – and in the Constitution at that. For that reason, I would like to support the motion for the deletion and that we vote on this before we suspend the session.

MR. GASCON. The committee agrees that we should put this to a vote.

MR. PADILLA. Madam President.

THE PRESIDENT. Does Commissioner Padilla have any comment on this?

MR. PADILLA. I am in favor of the Colayco proposal for the deletion of this Section 5(b) and I concur with the views expressed by Commissioners Bacani and Bernas with the remark that this so-called "multisectoral bodies" should appear in all levels of education. Does this mean that even in the elementary or even in high school, there should be the so-called democratization? I believe that in the early stages of education, there should be more discipline and obedience to the policies of the school. Hence, I urge for a vote, Madam President.

THE PRESIDENT. So we proceed to the motion of Commissioner Bacani to delete the entire paragraph. This has to be resolved first. Should that be lost, then we will proceed to revise the formulation of Section 5(b).

MR. GASCON. Madam President, may we just present the position of the committee? The committee stresses again the spirit of the provision of democratization and it is not close to any amendments to streamline the proposal.

THE PRESIDENT. I think that is clear to the body.

MR. GASCON. So, we do not accept the motion of deletion of Commissioner Colayco.

VOTING

THE PRESIDENT. As many as are in favor of the motion to delete Section 5(b), please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Three Members raised their hand.)*

The results show 17 votes in favor of the deletion of the entire paragraph, 12 against and 3 abstentions; the deletion of the entire Section 5(b) is approved.

MR. RAMA. Madam President, Commissioner Monsod would like to present an amendment to Section 5(c).

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Before we voted, there was this clarification that the deletion of this formulation would not prevent the committee from proposing alternative formulations. The chairman already asked that the proponents, such as Commissioners Davide, Sarmiento and Aquino, harmonize their proposed amendments.

MR. COLAYCO. Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. I would like to react to that.

When the body asked for the deletion of Section 5(b), in effect, it preempted any attempt to introduce any of the matters included therein, otherwise, it would be an indirect reconsideration without going through the body's voting. I, therefore, object to the manifestation of Commissioner Quesada.

MS. QUESADA. I submit, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. There has been a motion to delete and that has been approved. So, Section 5(b) as worded now, is deleted. The Chair stated that should the motion to delete be lost, then the section would be open for amendments. But it won; therefore, the whole paragraph is deleted, but we do not foreclose any rephrasing of any other section here in the committee report.

MR. GASCON. Madam President, the basis for the motion for deletion, as I understood from Commissioners Bacani and Bernas, is that it is sufficiently covered in other provisions.

THE PRESIDENT. Yes, that is right.

MR. GASCON. So, therefore, this does not preclude Congress from making laws or the MECS itself from providing regulations for consultation and democratization.

That is all. Thank you.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, may I just indicate that I have served some 15 to 20 years in a university council of the University of the Visayas in Cebu, and even with the deletion of this provision, this procedure has been adopted a long time ago in that particular university. We have such a thing as a university council composed of administrators and the deans of all the colleges. We have representatives in that university council – the president of the Supreme Student Council, the president of the Faculty Club and the president of the Parent-Teacher Association. This has been implemented a long time ago, Madam President. So, I do not think we should quibble over this provision.

Thank you.

MR. RAMA. Madam President.

THE PRESIDENT. So, let us proceed to subsection (c).

MR. RAMA. I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I just want to propose two deletions. The first one is the phrase "as well as faculty members and students thereof," and the second one is the second sentence which talks about "fiscal autonomy" for public and private educational institutions. When we say "All institutions of higher learning shall enjoy academic freedom," that is a very encompassing sentence. It already includes all the aspects of faculty members, students and so on at the institute of higher learning.

With respect to public and private educational institutions of higher learning that enjoy fiscal autonomy, I believe that in the period of interpellations, we already said that the COA had been limited to a postaudit of educational institutions of the government and that fiscal autonomy would put too much discretion and authority in the educational institutions. So, we are proposing that that section be deleted because of the presence of that provision in the COA section.

Secondly, I do not understand what "fiscal autonomy in private educational institutions" means because fiscal autonomy normally refers to government institutions. Hence, my amendment is to delete the whole line.

THE PRESIDENT. May we have the comments of the committee?

MR. GASCON. There are two motions for deletion; one is for the deletion of the phrase "as well as faculty members and students thereof." It should be deleted since it is already covered by all institutions of higher learning. Then the second one is to delete lines 31 and 32, starting from "public" up to "autonomy."

May we recommend that we discuss these separately?

MR. MONSOD. Yes.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I speak briefly in favor of the committee proposal? I think there is a need to place the words "faculty members and students" in the proposed section. By including the words "faculty members and students" we will be giving emphasis to these aspects of academic freedom. Madam President, during martial law, this freedom was enriched when it was understood to mean academic freedom of educational institutions. However, with the filing of so many students' cases with the Supreme Court, the latter enriched the jurisprudence on the students' academic freedom.

As I stated during the period of interpellations, about three or four cases were acted upon by the Supreme Court thereby enriching the jurisprudence on students' academic freedom. There is need to retain the word "students" here to show to the students who constitute a big portion of our population that we, the Members of the Constitutional Commission, love and protect them. So, I suggest that we maintain the academic freedom of students and also that of the faculty. By stressing the faculty academic freedom, we show to these teachers that we patronize, protect and love the teaching profession which is an oppressed sector of our society.

So, with due respect to Commissioner Monsod, I will object to his amendment by deletion.

MR. RAMA. Madam President, Commissioner Bengzon would like to reserve his comments.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, under the Rules, in the matter of amendment, there will be three who will speak in favor of the proponent and two against. I will speak in favor of the proponent by agreeing to the deletion of the phrases stated by Commissioner Monsod. Since the Supreme Court has enriched the jurisprudence, then we should leave this concept to develop by itself through the cases that may be filed in the proper courts. This is a field of law that is currently developing. There is no question that the Members of this Commission care for the students and the faculty members. There is no question that the Members of this Commission are concerned with the welfare, not only of the physical well-being, but also of the mental well-being of our students, as well as the affairs of the faculty members. But again, if we do not state this here, it does not mean that we do not care for them. Precisely, we do care for them so much that we allow society in the Philippines to develop this concept by itself in the course of the development and the life of the Filipino people. Let it flourish by itself and let the Supreme Court enrich the jurisprudence, so that law will evolve through the interpretation of the various laws that will be created by Congress.

Thank you.

MR. RAMA. Madam President, Commissioner Padilla would like to make his comments.

MR. PADILLA. Madam President, I wish to invite attention that Section 5 of the 1935 Constitution states the following: "Universities established by the State shall enjoy academic freedom." This provision was expanded in the 1973 Constitution under Section 8 (2), which reads: "All institutions of higher learning shall enjoy academic freedom." I believe that the 1973 Constitution which expanded the 1935 Constitution is more than sufficient to assure academic freedom in educational institutions of higher learning. And so, I support the proposed amendment of Commissioner Monsod, as well as the comments of Commissioner Bengzon.

Thank you, Madam President.

MR. NOLLEDO. Point of information, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

With regard to the cases cited by Commissioner Sarmiento where the Supreme Court ruled that students enjoy academic freedom, it was stated by the Supreme Court that academic freedom is enjoyed by students in the form of an *obiter dictum*. The statement was not decisive of the cases mentioned. I have read the cases in their original copies and I am very sure of this. That is why the committee is justified in providing that academic freedom is likewise enjoyed by students because the pronouncement of the Philippine Supreme Court is only in the form of an *obiter dictum*. So, with due respect to Commissioner Monsod, I recommend very strongly that we should be emphatic by saying that academic freedom is also enjoyed by students.

In my interpellations of the members of the committee, I suggested that academic freedom as defined by many authorities, including the late Dr. Carlos P. Romulo, be enjoyed only teachers. In view of this opinion, the Supreme Court made an *obiter*. So there is no established rule that academic freedom is enjoyed by students, and this Commission will be justified in making it a categorical statement that students also enjoy academic freedom. If we really love the students, then let us manifest by overt act our love for them not by mere omission. Let us manifest it by an express statement that academic freedom is likewise enjoyed by them. I think the students will be grateful to the Members of the Commission for making that statement emphatic.

Thank you, Madam President.

MR. RAMA. Thank you.

Commissioner Aquino would like to be recognized.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I would concede to the fact that the principle of academic freedom belonging to the institution, to the parents and to the students as well, is not yet well established. It is not well established in law neither in jurisprudence. Precisely, there is the historical imperative now to define it decisively in the Constitution. However, there is one thing that is very definite. Academic freedom when defined to mean the freedom of intellectual inquiry is basic to intellectual growth and development. However, we should likewise be aware that academic freedom is subject to manipulation. It can be used and disguised by institutions to peddle an ideology, a sectarian thought or a professed dogma. Likewise, educators or professors could use and abuse academic freedom for their own ends. They occupy such a persuasive position in the classroom that the impressionable minds of the students when stunted effectively could amount to no less than dwarfed thoughts. Dwarfism is hardly productive for growth. I would rather that we be very definitive in protecting the academic freedom of the students. There is only a hairline difference between learning and persuasion, between indoctrination and assimilation and it is necessary for us to develop in the students the consciousness and the use of their critical faculties to avoid the possibility of orthodoxy or standardized thought in education.

MR. RAMA. Madam President, I ask that Commissioner Bernas be recognized.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, I have just a few questions to be addressed to the committee. Is it the intention of the committee to fix the meaning of academic freedom, whether it is for institutions or for faculty members or for students?

MR. GASCON. The intention is to clarify what is already understood. According to jurisprudence, when we speak of academic freedom for educational institutions, it includes the academic freedom of teachers and students. That was made clear during our period of interpellations.

FR. BERNAS. What I would like to know is that when we assert, it is fairly clear on what the contents of academic freedom for educational institutions are or there is an abundant literature on the content of academic freedom for faculty. When the Commissioner asserts the academic freedom of students, what precisely are the contents of this concept?

MR. GASCON. If the Commissioner would recall, we reasserted that when we speak of academic freedom which is accrued to scholars, we first make the assertion that students should also be acknowledged as scholars in the educational institution in search for knowledge and truth. Hence, they should be accorded this basic right to academic freedom which is, first, the basic right to inquire; second, it is their right to search and publish whatever they have researched. However, what happened during the dictatorship of Mr. Marcos was that this constitutional provision on academic freedom to educational institutions was also made good use of but the right of students to form organizations and student councils, to run publications and to express their views and opinions was repressed. When we speak of students' academic freedom, this basic right of the student to organize student councils, to run a publication and to express their views and opinions should also be reasserted because this freedom was repressed during the dictatorship of Mr. Marcos.

So, we would like to assert and make it clear that the basic right of the citizen outside the school is not lost when he enters the gate of the university.

FR. BERNAS. Therefore, do I take it right that when the Commissioner says that students have academic freedom, all he is saying is that their constitutional rights as found in the Bill of Rights should be respected even if they are in school?

MR. GASCON. Yes.

FR. BERNAS. That means no new concepts are being followed?

MR. GASCON. When we were in conference, the Commissioner was asking if academic freedom meant that the student has the right not to attend his classes when he is so required. That is not what it means. It is very clear that what we want is to reassert the position that there is genuinely student academic freedom. For example, when we speak of the right to organize, we say that it is already in the Bill of Rights and this is also further mentioned in the Labor Code. We also reasserted that in our Article on Social Justice. We have reasserted the basic right of workers to organization although it is already in the Bill of Rights, just as much as we provide that in the Article on Social Justice.

I think we should also give much to the students who, up to this point in time, do not even have genuine campus organizations or student councils so that they will be provided and accorded their basic constitutional rights.

FR. BERNAS. In other words, as with other rights, when we assert the academic freedom of students or faculty members, this allows for a weighing of values whenever there is conflict?

MR. GASCON. Yes.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I would volunteer to assist the committee in streamlining the concept because there might be a confusion of ends and means here. We are not talking of vague concepts of academic freedom. Essentially, academic freedom is defined as the freedom of intellectual inquiry. That is first and foremost. All the other rights that are appurtenant thereto are supportive of such freedom, like the right to organize and participate in the policy-making bodies of the institution. But the thrust of academic freedom, as it is fundamentally understood, is the right of the student to learn, and the freedom of the student to be protected from conversion or indoctrination.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Because of the consensus reached in the Subcommittee on Education, the members have agreed that academic freedom should be extended to students. But I would like to make a manifestation that I do not share the sense of student academic freedom as expressed by Commissioner Gascon. We are aware that under the provision of the 1973 Constitution and pursuant to the decisions of cases in the Philippines, including the cases of *Garcia vs. Loyola School of Theology* and *Montemayor vs. GAUF,* that concept is already, more or less, settled, if not completely; so, this academic freedom is extended to educational institutions and to faculty members. In other words, we have two kinds of academic freedom here – one is institutional, referring to educational institutions as juridical persons, and the concept is well expressed in the leading case of *Sweezy v. State of New Hampshire.* With respect to the individual freedom of faculty members, we have this accepted definition of academic freedom of teachers by Arthur Lovejoy, and I would like to quote:

> The freedom of the teacher in higher institutions of learning to investigate and discuss the problems of science and to express his conclusions, whether through publication or in the instruction of students, without interference from political or ecclesiastical authority or from administrative officials of the institution in which he is employed, unless his methods are found by qualified bodies of his own profession to be clearly incompetent or contrary to professional ethics.

My stand is that the student academic freedom that we speak of here would refer only to academic matters, because in an educational institution, there could be both academic and nonacademic activities. Therefore, I agree with Commissioner Gascon that this would include the right to inquire and the right to publish. But I would not go so far as to include the right to form association, which is not, in effect, denying the students the right to form association because, as he said, when they enter the school they do not lose their citizenship. They still have that right under the provisions of the Bill of Rights and under the Article on Social Justice. But the formation of associations is no longer an academic matter; it does not pertain to it. So, paraphrasing Lovejoy, as far as student academic freedom is concerned, I would say that this is the freedom of the student in higher institutions of learning to investigate and discuss the problems of his discipline and to express his conclusions, whether through publication or through expression of his views, without interference from political or ecclesiastical authority or from the administrative officials of the institution in which he is a student unless his methods are found by qualified bodies to be clearly incompetent or unethical. In other words, if a student talks about matters of science of which he has done research, that would fall under academic freedom. But suppose he talks about who should be Miss Universe, Miss Finland or Miss Spain, that would no longer fall under academic freedom. It would fall under the right to free expression.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. May I propound just one question.

"Institutions of higher learning" in this provision refers to both public and private institutions of higher learning. It refers even to sectarian institutions of higher learning. It was stated by the committee that one of the rights they want to grant to students is the right to publish college papers. Let us say, in the Ateneo University, a group of students publishes a college paper of their own to be circulated among the students within the Ateneo premises and, in that paper, they state that they do not believe in the Divinity of Christ, in the Immaculate Conception and in the Virgin Birth. Can the Ateneo authorities interfere to prevent this?

MR. VILLACORTA. Madam President, it depends on whether Commissioner Rodrigo is referring to Ateneo de Manila University, because this academic freedom is reserved to institutions of higher learning.

MR. RODRIGO. Yes, I am referring to the university.

MR. VILLACORTA. When the committee included the academic freedom of students, it was contemplating on the students' right to freedom of inquiry which includes the right not only to accurate information but also to hear any opinion on any subject of public or general concern, whether or not related to any subject they may be currently studying, which they believe worthy of consideration. For this purpose, the students have the right to invite outside speakers and school authorities who may not veto their invitation solely on the basis of the credentials of the speaker.

This academic freedom of students also includes the right not to be subjected to indoctrination leading to imposed ideological homogeneity. And, therefore, in answer to the question of the Commissioner, the interpretation would be that Ateneo University would not have the right to suppress that material.

MR. RODRIGO. It cannot.

MR. GASCON. The Ateneo University can intervene when there is a clear violation of regulations because the academic freedom accorded to faculty or students is still balanced off by the basic academic requirements of the basic regulations of the school. This does not give the students or the faculty the right to violate rules and regulations of that particular educational institution. Therefore, if there is a clear violation of regulations, then perhaps, the university can intervene. In the Commissioner's hypothetical situation, he did not present any violation. Hence, if there is a violation, then perhaps, Ateneo can intervene.

MR. RODRIGO. It is known that the Ateneo, La Salle and University of Santo Tomas are Catholic universities. It is known that the following are matters of dogma with Catholics: the Immaculate Conception, the Virgin Birth, the Divinity of Christ, and the Blessed Trinity. Let us say a group of students enrolled at La Salle published their own La Salle gazette and distributed this among all the La Salle students within the university premises. The gazette says: "The Holy Trinity is not true . . . It cannot be true; that is contrary to reason." Can the La Salle authorities say, "Hey, stop that paper or we will expel you from school"?

MR. VILLACORTA. Madam President, even a Catholic university has a responsibility, precisely because it is an institution of higher learning. It must respect academic freedom. For example, in our university, we have Marxists and atheists even among our faculty and they are free to manifest their beliefs even inside the classroom, yet they are left untouched. In the student organ of De La Salle, *The La Sallite,* some of them come up with leftist views or atheist views and they are not suppressed because it is a part of the academic freedom that must prevail in every university.

MR. RODRIGO. So, in the case I cited, let us say that the authorities of La Salle tell their students, "No, you cannot do that because this is a Catholic school. When you enrolled here, you knew that this is a Catholic school," would the authorities of that university be violating this provision?

MR. VILLACORTA. Is the Commissioner speaking only of De La Salle?

MR. RODRIGO. No, not just La Salle, because this is a constitutional provision that we are talking about.

MR. VILLACORTA. With this provision, yes. For that matter, in any university all over the world, whether Catholic or non-Catholic, whether this provision is adopted or not, academic freedom is a universally accepted tradition.

MR. RODRIGO. Yes. But the definition is not very clear; and that is why I am applying it to a specific case of a group of students. They organize themselves, put up a college paper and attack Catholic dogmas. Or, it can happen also in an Islamic university. Let us say that in an Islamic university, some students publish a paper questioning the belief that Mohammed is a prophet. Cannot the university authorities interfere?

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen desires to respond to that question.

MR. BENNAGEN. Within the spirit of academic freedom as free inquiry, I think a student who goes into the kind of exercise cited by Commissioner Rodrigo should be protected as long as the activities fall within the canons of scholarship and subjected, as it were, to the forces of the market place of ideas. Eventually, it is in this market place of ideas that the academic freedom as a provision will be tested. Incidentally, in the flagship provision of the article, we did say that the State shall foster or promote human liberation and development. In Section 3(b), we did say that the State shall encourage creative and critical thinking. I think the provision on academic freedom in higher institutions for faculty members and for students provides a measure of protection for this kind of pushing, as it were, the frontiers of knowledge. And so far as this is allowed full play in the academic institutions or in the institutions of higher learning, I think we will end up the better as a people.

MR. GASCON. As I have already expressed and as it is written here in the "Legal Rights of Students," a primer published by the Civil Liberties Union, school authorities may subject to reasonable regulations the exercise of students' rights to freedom of movement, to speech, to peaceful assembly and privacy inside school premises. As I said, academic freedom of students does not give the mandate to the students to violate existing school regulations. So, that should be clear.

What we are reasserting here is that the student, being a member of the educational institution which is a sector of the academic community, has and enjoys academic freedom. As Commissioner Aquino and Commissioner Guingona have expressed very well, students have the basic right to intellectual inquiry and other rights which are already provided in the Bill of Rights and which may not be taken away from them simply because they have entered the university. This should be seen as supportive of their basic right to intellectual inquiry as members of the academic community.

THE PRESIDENT. Commissioner de los Reyes is recognized first and then to be followed by Commissioner Azcuna.

MR. DE LOS REYES. I would like to be guided in voting. I heard that academic freedom is defined as the freedom of intellectual inquiry and the freedom not to be subject to indoctrination. In Section 3(b), we approved the phrase "encourage critical and creative thinking." Is that not already included within the concept of academic freedom? Or, is academic freedom entirely a different concept from critical and creative thinking?

MR. BENNAGEN. Madam President, I think the provision on academic freedom gives a measure of protection. In very concrete terms, let me say that in many institutions of higher learning, baccalaureate students and graduate students are now tasked with writing term papers, seminar papers, theses and dissertations. I think this provision will promote the capability of students to pursue the limits of ideas without being pressured by existing orthodoxy on the specializations that students pursue.

MR. DE LOS REYES. But Section 3(b) does not only protect, it even encourages critical and creative thinking which is a higher right given to students. Certainly, when the State encourages critical and creative thinking, it will naturally protect it. This is based on the definition read by the committee as already covered in Section 3(b).

Thank you, Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Madam President, I would like to propose a wording that might embrace all types of academic freedom. Instead of saying: "Academic freedom shall be enjoyed by students, by teachers, by researchers," why do we not just say: "ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING." That way, we do not have to specify the different components who enjoy it.

In the 1973 Constitution, this freedom is given to the institution itself. All institutions of higher learning shall enjoy academic freedom. So, with this proposal we will provide academic freedom in the institutions – enjoyed by the students, by the teachers, by the researchers and we will not freeze the meaning and the limits of this freedom. Since academic freedom is a dynamic concept and we want to expand the frontiers of freedom, specially in education, therefore, we will leave it to the courts to develop further the parameters of academic freedom. We just say that it shall be enjoyed in all institutions of higher learning.

THE PRESIDENT. Before the committee reacts, may we hear Commissioner Ople.

MR. OPLE. Thank you, Madam President.

I just want to put a few quick questions to the committee. I have to confess my very limited knowledge of academic freedom in universities, specially in concrete practice. But does the committee, by and large, share the definition of academic freedom as already put forward by Commissioners Aquino and Guingona in terms of the pursuit of knowledge and no boundaries to critical inquiry with respect to certain academic disciplines?

MS. ROSARIO BRAID. Yes.

MR. VILLACORTA. Yes.

MR. OPLE. On the other hand, in the quotation attributed to Mr. Arthur Lovejoy in what Commissioner Guingona just shared with the Commission, specially in terms of associating academic freedom with certain responsible modes of testing academic freedom, is that a Supreme Court decision or just a learned treatise? As an example, the Commissioner also said that the modes of research could be evaluated by the academic peers or by the instructor or professor exercising academic freedom to determine whether this freedom has been exercised responsibly.

MR. GUINGONA. This concept has been advanced by Arthur Lovejoy, but it has been accepted jurisprudentially not only in the United States, but also in the Philippines.

MR. OPLE. Having in mind this distinction of academic freedom as the pursuit of truth, may I quote this saying: "Ascertain the truth from facts." Is there any significant difference between advocacy and the pursuit of truth in the academic sense?

MR. MONSOD. Madam President.

MR. VILLACORTA. Advocacy is part of the pursuit of truth, although it is not the only means towards the pursuit of truth. Because in the process of pursuing truth, some individuals have discovered certain manifestations of the truth and it is their duty to advocate or to spread what they have discovered. This is particularly applicable to research findings.

MR. OPLE. Yes. I see that that follows because there is also a saying that thought without action is a disease. But I do recall in contemporary history the brave proclamation of Mao Tse Tung in China about "a hundred flowers blooming and letting a hundred schools of thought contend." When this was put to the test of reality, people did paste up a lot of contrary political thoughts on the wall near Tien An Men Square. Eventually some of these people were arrested. But what I mean is, can academic freedom be invoked by a group of students in order to espouse what in the eyes of the authorities could be a seditious propaganda in the name of the pursuit and advocacy of truth?

MR. VILLACORTA. I think this was very vividly manifested during the regime of Mr. Marcos when what was considered seditious and subversive by the existent government had to be asserted within the walls of the university. This was when many universities were very effective in defending the freedoms and rights of the people. That is why it is imperative that academic freedom be guaranteed in the Constitution, if only for this purpose.

MR. OPLE. Yes. Of course, any government, regardless of its form, has a cardinal principle that it follows – that the State must preserve itself. Therefore, whether in the Soviet Union, in China, in the United States or in the Philippines, there are sedition laws and laws protecting national security in order to balance the exercise of the freedom and liberties of citizens. I assume that such sedition laws stay on the statute books now under a more liberal government. The question is still valid: Can a group of students organize and espouse what the authorities consider seditious propaganda in the name of academic freedom?

MR. VILLACORTA. By the word "authorities," does the Commissioner mean school authorities?

MR. OPLE. The school authorities and state authorities, whoever they may be. I am not sure where this power and responsibility are lodged now. I suppose that the courts pass upon such charters.

MR. VILLACORTA. The reason why the committee proposes that we identify the beneficiaries of academic freedom, including faculty members and students, is precisely because of the situation that the Commissioner has just described in which we would like to protect both the faculty member and the students from certain state suppressive activities that might be exercised by a future dictatorial government. Not only that, there might be certain school authorities that would wittingly or unwittingly collaborate with this dictatorial state authority in suppressing thought and freedom of expression.

MR. OPLE. In the definition offered by Commissioner Aquino which I thought was most excellent, she also talked of the need to protect the students and the faculty from what she called the danger of ideological indoctrination. I wonder what she meant by that. She is not here now, but the committee, having assumed jurisdiction, can explain what that meant, if that is a valid content of academic freedom.

MR. GUINGONA. May we invite the attention of Commissioner Ople that Commissioner Aquino is in the session hall.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. To abbreviate the proceedings, I can assist the committee in answering some of the questions of Commissioner Ople. We handled several students' cases during martial law. Academic freedom does not mean license. The students are still subject to reasonable school regulations. So if they espouse seditious views or if they distribute the so-called subversive materials, the schools would find appropriate charges against them. This was done during martial law.

My submission is that the exercise of students' rights as freedom of movement, speech, peaceful assembly and privacy inside school premises is subject to reasonable regulations. This is also true of publications which are official organs of the school or student body, as well as of the circulation of other publications within school premises. However, it is our submission that to be reasonable, the school regulations must comply with three requirements: (1) it was adopted by the board or officers of the school having authority to do so; (2) it must be made known to the student body; and (3) it must be designed to prevent disruption of school functions or to protect the health, morals, property or rights of students.

MR. OPLE. Yes, that eliminates some of the doubts in my mind. Of course, in an atmosphere of political and social stability, the meaning of academic freedom is probably more easily and quickly understood. However, we now live in a volatile time when polarizations take place both inside and outside the campuses and that is why I have a valid concern to ask these questions so that we can determine the implications of academic freedom for students in our own specific times.

Thank you, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, if it will make the committee any happier, I would like to indicate that I am all for the statement of academic freedom in the Constitution depending on the formulation. I would also like to associate myself with the statement of Commissioner Azcuna that academic freedom is a very dynamic concept and so even if we turn ourselves blue, quoting Arthur Lovejoy, or the American Association of University Professors, or the case of *Keyishian v. Board of Regents* (385 U.S. 589), a U.S. case on academic freedom, we will never get anywhere. So, I would like this concept to be open-ended. However, I would like to ask the committee that perhaps we could concretize the problem by saying that there is some sort of required harmonization between the constitutional provision on supervision and regulation and academic freedom, on the other hand. Is that not the problem? It is actually the kind of harmonization between supervision and regulation and academic freedom on the other hand.

MS. ROSARIO BRAID. Yes, I think it is the harmonization of the two concepts – regulation and freedom.

MR. VILLACORTA. Is the fact that there is a conflict between supervision and regulation and academic freedom the premise of the Commissioner?

MR. MAAMBONG. Yes, that is actually one part of the problem. When a student or a professor or the institution itself exercises academic freedom, he could get into conflict with the other constitutional provision on supervision and regulation of the school itself and that becomes a part of the conflict. I am just asking the committee if we agree on that.

MR. VILLACORTA. Madam President, the analogy seems to be the relationship between the State and the individual. The State regulates to a certain extent the behavior and actions of an individual citizen, but that citizen has inherent and inalienable rights which the State cannot take away from him.

So there is no conflict in such a relationship, in the same manner that state regulation of schools does not conflict with the academic freedom of universities and colleges.

MR. MAAMBONG. That is precisely my point of reference, because we have to establish a concept wherein the State has supervision and regulation of institutions of learning; whereas, we are trying to put in the concept of academic freedom inside the institutions of learning. These two concepts could get into trouble with each other, and that is just the point I am trying to ask the committee.

MS. ROSARIO BRAID. Yes. If the Commissioner means some degree of state regulation or school regulation in terms of prescribed curricula, still we encourage the freedom to search or to go beyond them. Hence, these are the kinds of concepts that have to be harnessed.

I would like to follow up Commissioner Azcuna's concept of dynamic definition of freedom, because we have been defining it as individual freedom of inquiry to search. This freedom, however, has to be matched with social responsibility and has to be seen also in terms of the students' freedom to demand even a restructuring of orientations and of existing curricula which may be orientations of institutions of faculty that are not appropriate. Thus, even the orientation towards overacademization and towards too much emphasis on open education with unlimited opportunities may give the student a false notion of the society in which he finds himself.

These are exactly some of the rights that should be guaranteed to the student beyond the individual right of inquiry. So by broadening this, we make it more relevant to the social realities of the times.

MR. MAAMBONG. What I am trying to say is that we have bogged down in this discussion because we do not see how we can reconcile a concept of state regulation and supervision with the concept of academic freedom.

MR. GASCON. When we speak of state regulation and supervision, that does not mean dictation, because we have already defined what education is. Hence, in the pursuit of knowledge in schools we should provide the educational institution as much academic freedom as it needs. When we speak of regulation, we speak of guidelines and others. We do not believe that the State has any right to impose its ideas on the educational institution because that would already be a violation of their constitutional rights.

There is no conflict between our perspectives. When we speak of regulations, we speak of providing guidelines and cooperation in as far as defining curricula, et cetera, but that does not give any mandate to the State to impose its ideas on the educational institution. That is what academic freedom is all about.

MR. ROMULO. Madam President, what is the parliamentary situation?

THE PRESIDENT. Commissioner Treñas has to be recognized. Shall we hear him first before we proceed further?

MR. TREÑAS. Insofar as academic freedom is concerned, I believe that it is not absolute. It is subject to reasonable regulations of the school and to our laws. So there seems to be no conflict in this matter, because while it is true that the school, the institution, the faculty, as well as the students on one hand, enjoy academic freedom, we still recognize that that freedom is not absolute, since it is always subject to reasonable regulation of the school.

Furthermore, while it may be constitutionally recognized that schools, institutions, faculty, as well as students, enjoy academic freedom, this is subject to all laws on the matter. So, that is my simple interpretation of academic freedom without going into these details, and there should be no conflict whatsoever.

MR. MAAMBONG. We agree with that.

THE PRESIDENT. I think Commissioner Maambong has been given sufficient time. May we now hear from Commissioner Monsod?

MR. MAAMBONG. May I just put in one sentence so that I can sit down, Madam President.

Precisely, the cases of Garcia and Montemayor came about because there seemed to be some conflict. However, let me just point out that there seems to be some problem also between the concept of academic freedom and the freedom of expression. So, maybe some other speakers can talk about it later on.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, the parliamentary situation is that I have moved to delete the phrase "as well as faculty members and students thereof" but Commissioner Azcuna has modified that proposal to eliminate the same phrase and he proposed to restate the sentence in another way. I would like to say that I accept the amendment of Commissioner Azcuna.

THE PRESIDENT. So, it is no longer a motion to delete but just a motion to modify or amend.

MR. MONSOD. Yes, because there would also be a deletion in Commissioner Azcuna's motion.

MR. GASCON. May we hear the amendment again?

THE PRESIDENT. Will Commissioner Azcuna please restate his amendment?

MR. AZCUNA. The amendment will be: "ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING."

MR. GASCON. In order that the committee may act accordingly, when we speak of the sentence "ACADEMIC FREEDOM SHALL BE ENJOYED IN ALL INSTITUTIONS OF HIGHER LEARNING," do we mean that academic freedom shall be enjoyed by the institution itself?

MR. AZCUNA. Not only that, it also includes . . .

MR. GASCON. The faculty and the students.

MR. AZCUNA. Yes.

MR. GASCON. So, is academic freedom ensured to all these three sectors in the academic community?

MR. AZCUNA. Yes, as it exists under existing jurisprudence without prejudice to the development of that idea of freedom in the future.

MR. TREÑAS. Madam President, we accept the amendment on behalf of the committee.

MR. AZCUNA. Thank you.

VOTING

THE PRESIDENT. The committee accepts.

As many as are in favor of the proposed amendment of Commissioner Azcuna, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 35 votes in favor and none against; the Azcuna amendment is approved.

MR. BENGZON. Parliamentary inquiry, Madam President.

THE PRESIDENT. The Commissioner may proceed.

MR. BENGZON. With the approval of the amendment of Commissioner Azcuna, does that mean that all the rest of the phrases in that paragraph and also the second sentence should be deleted?

THE PRESIDENT. No, that only refers to academic freedom, because there was an understanding that this will be taken separately.

MR. BENGZON. Thank you.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. With respect to the fiscal autonomy, I have a second motion to delete the entire sentence on lines 31 to 32 – beginning with "Public and private educational institutions."

THE PRESIDENT. What does the committee say?

MR. TREÑAS. On behalf of the committee, we accept the deletion.

MR. MONSOD. Thank you.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

SUSPENSION OF SESSION

MR. ROMULO. Madam President, I move that we suspend the session until two-thirty in the afternoon.

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 12:39 p.m.

RESUMPTION OF SESSION

At 2:59 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. ROMULO. We are now in Section 5(d).

THE PRESIDENT. Is there any proposed amendment to Section 5(d)?

MR. ROMULO. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

My proposed amendment to subsection 5(d) on page 4 of the committee draft is to reformulate the subsection to read simply as follows: "THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO JUST AND ADEQUATE COMPENSATION AND TO PROFESSIONAL ADVANCEMENT. RESEARCHERS AND NON-TEACHING ACADEMIC PERSONNEL SHALL ENJOY PROTECTION OF THE STATE."

MR. VILLACORTA. Will the Commissioner give us a few seconds so I can consult the other Members?

MS. ROSARIO BRAID. Madam President, Commissioner Ople has a new amendment at the end of this section that might blend with this one.

MR. DAVIDE. Is it the pleasure of the committee to integrate the two amendments?

MS. ROSARIO BRAID. Yes, we accept the Commissioner's amendment, but we would rather integrate his provision with the proposed amendment submitted by Commissioner Ople.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. It was about a week ago when I submitted a set of proposed amendments to the committee which was circulated to all the Members of the Commission. In that list is a proposed section which reads as follows: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO ENSURE THAT TEACHING WILL ATTRACT AND RETAIN THE BEST TALENTS AVAILABLE THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB FULFILLMENT." The other proponents of this amendment are Commissioners Rama, Guingona and Calderon.

The committee is right in the sense that there is a great resemblance between this proposed section and that one put forward just now by Commissioner Davide. Does the committee desire that we compare notes?

SUSPENSION OF SESSION

MR. VILLACORTA. Madam President, we would like to request for a suspension of the session so that we can harmonize these two proposals.

THE PRESIDENT. The session is suspended.

MR. OPLE. Thank you very much.

It was 3:04 p.m.

RESUMPTION OF SESSION

At 3:10 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Before we go to the agenda, the Chair would like to announce the presence of a big delegation from San Pablo City, the students of the Canossa College. They are here to witness our deliberations on the Article on Education.

May we ask the Acting Floor Leader whom the Chair shall recognize.

MR. ROMULO. Commissioner Davide, Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, I am modifying my proposed amendment to be followed by the Ople amendment. This will only be the opening sentence to read as follows: "THE STATE SHALL ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT." Then, it will be followed by the Ople amendment.

THE PRESIDENT. What is the Ople amendment?

MR. OPLE. Madam President, after our conference with Commissioner Davide and the chairman and members of the committee, I think we have arrived at a common formulation of the next section. It reads as follows: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB SATISFACTION AND FULFILLMENT."

May I just say a word concerning this amendment?

THE PRESIDENT. The Gentleman has three minutes.

MR. OPLE. All the great and sincere piety professed by every President and every Congress of the Philippines since the end of World War II for the economic welfare of public schoolteachers has always ended up in failure. That our public schoolteachers, now numbering 350,000, are long past the threshold of endurance - is dramatically demonstrated by the mass defection of the best and the brightest teachers to other careers, including menial jobs in overseas employment. Concerted mass actions by them to project their grievances over low pay and abject working conditions have become their commonplace. The high expectations generated by the events of February are now exacerbating these long frustrated goals.

Granted the sincerity of the oldish administration that tried vainly to respond to the needs of the teachers, the central problem that always defeated their pious intention was really the one of budgetary priority. The situation in every budgetary debate in which I participated in the past was such that any proposed increase for public schoolteachers had to be multiplied several times by the number of government workers in general and their own equitable claims to any pay standardization. The result is that the pay rate of teachers is hopelessly pegged to the rate of government workers in general, totalling about P1.7 million. This foredooms the prospect of a significant increase for teachers. The recognition by the Constitution of the highest budgetary priority for public schoolteachers and by implication for all teachers will ensure that the President and the Congress will be strongly armed by a constitutional mandate to grant to them such a level of remuneration and other incentives that will make teaching competitive again and attractive to the best available talents in the nation.

Madam President, at any time, there is a talent allocation principle and process that work in a society. There are times when the profession of law or business or the military as career choices is favored. Before World War II, teaching competed most successfully against all other career choices for the best and the brightest of the younger generation. This provision, if adopted, will ensure that teaching will be restored to its lost glory as the career of choice for the most talented and most public-spirited of our younger people. It is a countervailing measure against the continued decline of teaching and the wholesale desertion of this noble profession now taking place. It ensures that the future and the quality of our population in the days to come will be asserted as a top priority against many importunate, but less important, claims of the present. I submit, Madam President.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Will Commissioner Ople yield to some questions?

MR. OPLE. Very gladly, Madam President.

THE PRESIDENT. Please proceed.

MR. NOLLEDO. Because of the use of the words "HIGHEST BUDGETARY PRIORITY," it seems that the Gentleman is referring only to teachers in public schools. Am I right?

MR. OPLE. Yes, Madam President, because they are the ones accessible to the budget of the government.

MR. NOLLEDO. How about teachers in private schools, does not the Gentleman think that there is also a need to provide for their adequate compensation in the Constitution?

MR. OPLE. There is a labor market view of this, Madam President. Considering the bellwether character of the public school teachers, the most numerous in the whole constellation of teachers in the Philippines, then any budgetary priority assigned to improve the pay scale of public school teachers will necessarily have a feedback effect, a positive one on the salaries of private school teachers.

MR. NOLLEDO. Considering the preference that Commissioner Ople's amendment accords public school teachers, will there not be discrimination against other employees of the government, like the health workers of Mrs. Quesada, the street workers or the ordinary employees of any government office? Can they not say that they are also being discriminated against, as they are also doing service to the nation?

MR. OPLE. The constitutional option is whether to help transform the lives of our teachers now, even if they are set apart from the rest, or to keep the whole scale of remuneration for all public employees virtually undisturbed. But I would like to invite Commissioner Nolledo to watch with me for an opportunity during the rest of our deliberations to see that a similarly high budgetary priority – although we say the highest priority must be for teachers – elsewhere in this Constitution should be given also to the entire work force of the government.

MR. NOLLEDO. And when the Gentleman talks of "highest budgetary priority," he does not talk only of compensation or other incentives to be given to public school teachers but he also contemplates raising the standard of teaching in public schools by appropriate equipment facilities, et cetera?

MR. OPLE. Yes, Madam President, and I thank Commissioner Nolledo for making that part very explicit.

MR. NOLLEDO. Thank you.

THE PRESIDENT. Is there any other comment? What does the committee say with respect to this amendment?

MR. VILLACORTA. Madam President, we are accepting the Davide and Ople amendments, so we would like to request the Chair to call for a vote, first on the Davide amendment and then on the Ople amendment.

MR. OPLE. Thank you.

MR. GUINGONA. Madam President, I would just like to ask Commissioner Davide some clarifications in connection with his proposed amendment.

THE PRESIDENT. Commissioner Guingona may proceed.

MR. GUINGONA. Commissioner Davide speaks of the right of teachers, referring to the academic staff. Then he talks about the nonteaching academic personnel as understood in education circles and confirmed or defined under Section 6 of the Education Act to pertain to such officials as registrars, librarians, counselors, et cetera. But there is still another group of nonacademic personnel in an academic community made up of clerks, janitors and so forth. Would the Gentleman include them also or would he exclude them?

MR. DAVIDE. They are included under nonteaching academic personnel.

MR. GUINGONA. Madam President, in educational circles, when we talk of nonteaching academic personnel, we refer only to registrars, et cetera. So perhaps we could add the words "AND NON-ACADEMIC PERSONNEL."

MR. DAVIDE. I accept.

MR. GUINGONA. Thank you.

THE PRESIDENT. How would the whole subsection (d) or the first portion thereof now read?

MR. DAVIDE. It will merely read as follows: "The State shall ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT. Researchers, NON-ACADEMIC PERSONNEL and non-teaching academic personnel shall enjoy protection of the State."

THE PRESIDENT. Is this accepted by the committee?

MR. GUINGONA. Excuse me, Madam President. "Non-teaching academic personnel" as defined in the Education Act, already includes researchers. So perhaps we could drop the word "Researchers" because it is already embraced under the term "non-teaching academic."

THE PRESIDENT. Does Commissioner Davide accept that?

MR. DAVIDE. Yes, Madam President.

THE PRESIDENT. Will Commissioner Davide restate the latter portion of his amendment?

MR. DAVIDE. It will read: "The State shall ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT. Non-teaching academic personnel and NON-ACADEMIC PERSONNEL shall enjoy protection of the State."

THE PRESIDENT. Is this accepted now by the committee?

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Just for the record. Commissioner Davide's formulation would actually refer to all teachers in both private and public schools?

MR. DAVIDE. Yes, Madam President.

MS. QUESADA. But the second amendment, which is Commissioner Ople's, would refer actually to public school teachers?

MR. DAVIDE. Yes, because it is on budgetary priority and, therefore, it would involve national expenditures. However, since the teachers have the right to professional advancement, the State may also contribute to teachers in private educational institutions for their professional advancement.

MS. QUESADA. So this particular provision does not inhibit the teachers in the private sector to seek parity with government or public school teachers?

MR. DAVIDE. They are allowed to organize themselves and to bargain for better terms and conditions of their employment.

MS. QUESADA. Thank you.

THE PRESIDENT. Are we now ready to vote on the proposed Davide amendment?

Does Commissioner Padilla have any comments on that?

MR. PADILLA. May I propound a question to Commissioner Davide?

MR. DAVIDE. Gladly, Madam President.

MR. PADILLA. What does this term "professional advancement" mean?

MR. DAVIDE. This is rather a very broad term. It simply means that teachers will now be afforded seminars for their advancement. They would be allowed certain time to obtain, for instance, sabbaticals to pursue further studies, among others. So it simply means the advancement of their profession.

MR. PADILLA. This has reference to teachers?

MR. DAVIDE. Yes.

MR. PADILLA. Does that mean that the Gentleman wants them to be supervisors and then superintendents or bureau chiefs or to pursue masteral or doctorate degrees? Are these covered by this term "professional advancement"?

MR. DAVIDE. These are generally covered, but the State would have to consider also the financial position of the government in encouraging teachers to attain professional advancement. As I said, the government, through the Ministry of Education and Culture, may provide for seminars so that teachers can uplift their professional standing in the community and even among themselves.

MR. PADILLA. That is self-improvement?

MR. DAVIDE. Partly. There is the incentive provided by the State and, of course, it would require the necessary response or reaction on the part of the teachers whether to avail of a particular procedure granting them the opportunity to advance professionally.

MR. PADILLA. It is rather vague to me and does not clearly protect, promote or enhance the right of teachers.

MR. DAVIDE. That is why we only say "ENHANCE." This is encouragement and promotion – all the possible ways that the government can think of in order that the teaching profession will not stagnate or vegetate.

MR. PADILLA. The second sentence says: "Nonteaching academic personnel and NON-ACADEMIC PERSONNEL shall enjoy the protection of the State." What is the protection intended here? I think the State has to protect all the people, not just any particular sector.

MR. DAVIDE. It means better wages, better compensation. Under the original proposal of the committee, special care and attention to all of them is provided. We provided it this way because it might cover better terms and conditions of employment. They belong to the government sector, so necessarily the section regarding labor in the Article on Social Justice may not be fully applicable to them. They belong to a special class and somehow their compensation must be upgraded to afford them decent wages and, of course, better conditions of employment, such as shorter hours of work in a given week.

MR. PADILLA. But these nonteaching and nonacademic personnel in public schools, as employees of the State, are covered by the general term "public officers." Why should there be a particular privilege given to this sector when we have so many other public officers employed in the government service – whatever rank they have – such as the court stenographers and clerks?

MR. DAVIDE. The special attention is by reason of the very special nature of the work; they are in the educational system; they are practically in a very delicate and critical function of government. Many of them would be directly attached to a particular group; directly connected with young people, with children. And, therefore, they should be given special attention by the government because of the very nature of the work in the educational system. Education is not just the centerpiece of the Constitution. I would even consider this as the matrix of the Constitution because it is here that we can infuse and foster nationalism, patriotism, the duties of citizenship. So, it is the very inherent nature of the work.

MR. PADILLA. But these nonteaching and nonacademic personnel such as the janitors in the public schools are provided special protection by the State under this second sentence. What about the janitors of other government offices?

MR. DAVIDE. Yes, because they are part of the educational institution itself. So we cannot really categorize their functions as similar to those of janitors in other areas, such as those in the Bureau of Soils or the Bureau of Lands. To my mind, the functions of these janitors will be entirely different from the functions of janitors in educational institutions.

MR. PADILLA. This special protection may even undermine the basic principles of the civil service.

MR. DAVIDE. No, I do not think so, because since it is a mandate on the State and it could only be implemented by Congress, Congress will have to consider everything and establish a balancing of interests.

MR. PADILLA. That is why I am against this Constitution mandating this special privilege or protection to a particular group of government employees, even if they are connected with the public schools.

MR. DAVIDE. We have protection afforded by the State in various sections already.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Just for the record, Madam President. Regarding the terminology used by Commissioner Davide, the committee referred to the concept thereof under the Education Act of 1982. And since in the past the definition of the terminology has not actually been uniform, may I be allowed to put on record the definition thereof under Section 6 of the Education Act of 1982 so we will know the personnel involved in the phrases "academic non-teaching personnel" and "non-academic personnel." It says:

> Academic non-teaching personnel are those persons holding some academic qualifications and performing academic functions directly supportive of teaching, such as registrars, librarians, guidance counselors, researchers, research assistants, research aides, and similar staff; whereas, non-academic personnel are all other school personnel not falling under the definition and coverage of teaching and academic staff, school administrators, and academic non-teaching personnel.

Now we know the intendment and the coverage of the Davide amendment.

Thank you.

THE PRESIDENT. Are we now ready to vote?

MR. MAAMBONG. Madam President, before we vote, may we ask a final reading of the proposed amendment because we did not get the formulation very well.

THE PRESIDENT. Commissioner Davide will please read the amendment.

MR. DAVIDE. It reads as follows, Madam President:

"Subsection (d). The State shall ENHANCE THE RIGHT OF TEACHERS TO PROFESSIONAL ADVANCEMENT. Non-teaching academic personnel and NON-ACADEMIC PERSONNEL shall enjoy protection of the State."

MR. GUINGONA. "NON-TEACHING ACADEMIC."

MR. DAVIDE. "NON-TEACHING ACADEMIC and NON-ACADEMIC PERSONNEL shall enjoy protection of the State."

VOTING

THE PRESIDENT. As many as are in favor, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 28 votes in favor and 2 against; the amendment is approved.

We will now proceed to the proposed amendment of Commissioner Ople. I suppose this will be a paragraph.

MR. VILLACORTA. Yes, Madam President.

THE PRESIDENT. Will Commissioner Ople please read his proposal.

MR. OPLE. Thank you, Madam President.

In the same section, add a second paragraph to read as follows: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO EDUCATION AND ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS THROUGH ADEQUATE REMUNERATION AND OTHER MEANS OF JOB SATISFACTION AND FULFILLMENT."

The other proponents of this amendment are Commissioners Guingona, Aquino, de los Reyes, Natividad, Maambong and Calderon.

VOTING

THE PRESIDENT. This has been discussed.

As many as are in favor of this amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 25 votes in favor and none against; the amendment is approved.

May we know whether Vice-President Padilla abstained or voted against?

MR. PADILLA. Before the voting, I was going to express some suggestions for the elimination of the words "THE HIGHEST."

MR. VILLACORTA. Madam President, may we request that we now focus our attention on Section 5, paragraph (e).

THE PRESIDENT. Is there any proposed amendment to this paragraph?

MR. ROMULO. Yes, Madam President. I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, this is an amendment by deletion, the reason being that the right considered here is already included in the Articles on Civil

Service and on Social Justice, and even in the Article on the Bill of Rights. So we propose for its deletion.

THE PRESIDENT. Is the committee ready to react?

MR. VILLACORTA. The committee is divided, Madam President, so may we ask the body to decide on this issue.

THE PRESIDENT. Is there any comment on the amendment of Commissioner Davide to delete? *(Silence)* Are we ready to vote on this?

MR. ROMULO. We are ready to vote, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of the proposed amendment by deletion submitted by Commissioner Davide, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 25 votes in favor and 7 against; the amendment by deletion is approved.

MR. ROMULO. I ask that Commissioner Ople be recognized for an amendment.

MR. VILLACORTA. With the indulgence of the Acting Floor Leader and the Chair, Commissioner Quesada would like to raise a question with respect to the just approved deletion.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Madam President, we would like to put on record that the sense of this particular provision which has just been voted to be deleted is already expressed in both the Social Justice and the Bill of Rights provisions.

MR. OPLE. May I make it clear, Madam President, and I think I speak for many of the Commissioners who voted for the deletion, that the only ground for voting for the deletion was that the same principle is already expressed very categorically in the Articles on Social Justice and on the Bill of Rights.

MR. VILLACORTA. Thank you, Madam President.

MR. ROMULO. I ask that Commissioner Ople be recognized.

THE PRESIDENT. Is this still on education?

MR. OPLE. Yes, Madam President.

THE PRESIDENT. Please proceed.

MR. OPLE. This is the final amendment, I hope.

As agreed upon before, I think the committee is empowered to relocate this proposed amendment in any other appropriate place of the Article on Education. It reads: "TO DEMOCRATIZE ACCESS TO EDUCATION ESPECIALLY TO COURSES DEEMED CRITICAL TO NATIONAL DEVELOPMENT, CONCESSIONAL LOANS BASED ON THE STUDY-NOW-PAY-LATER PRINCIPLE SHALL BE MADE AVAILABLE TO DESERVING STUDENTS IN BOTH PUBLIC AND PRIVATE SCHOOLS. TO THIS END, THE STATE MAY ESTABLISH A COMMON FUND DRAWN FROM THE EARNINGS OF GOVERNMENT FINANCIAL INSTITUTIONS."

May I explain briefly, Madam President.

THE PRESIDENT. Please proceed.

MR. OPLE. The proposed provision has been demonstrated by experience to be completely feasible. There is actually in existence a "Study now, pay later" portfolio in the amount of about P65 million, contributed by the SSS, GSIS, DBP, PNB and the Land Bank of the Philippines, which is under the administration of the Ministry of Education, Culture and Sports. Some 20,000 underprivileged students have obtained access to college education, with emphasis on technical and engineering courses, since this was established at my initiative and that of Education Minister Juan Manuel in 1977.

About P65 million has been utilized to make this program available to various educational institutions, especially at the tertiary level. The students pay back upon being employed following graduation. None of the five financial institutions have ever complained about the inadequacy of the returns.

This, however, is still a very limited program and has not touched as many lives of the poor and deserving young as we had hoped for. The late Senator Benigno Aquino, author of a "Study now, pay later" bill in the Senate which was never passed into law, considered that proposal of his the most outstanding social and educational idea he had ever filed in his legislative career.

Once this is adopted as a constitutional provision, there shall be no reason whatever why a deserving but underprivileged student should not be able to go to college, his talent captured, developed and utilized in a new and pervasive network of concern for talented young Filipinos, especially those disadvantaged by the accident of birth. It is said truthfully that talent is the scarcest resource of any society, especially a developing society. The loan program proposed here will be a safety net of the State so that no matter how humble the birth and regardless of place in the Philippines, no talent will ever be wasted because of poverty.

Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I speak against this amendment.

Although there is beauty and wisdom in this amendment, to me, this is a surplusage. Madam President, we have this approved section on education saying that the State shall make quality education accessible to all. And then we have another provision which states that the State shall maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged.

Madam President, I humbly submit that this amendment is covered by the sections we have already approved and that this section, the Ople amendment, will be a good subject of legislation. As a matter of fact, the late Senator Benigno Aquino authored a "Study now, pay later," bill in the Senate.

MR. OPLE. Madam President, I thank Commissioner Sarmiento for his vigilance in pointing to a previous section where loans were mentioned in a series of proposed forms of assistance to students. I wanted, however, to assert the fact that there is no inconsistency and incompatibility between that previous mention of State assistance and this proposed section. It does introduce a realistic and concrete dimension to a vague pledge of loans as merely one of the forms of State assistance to students. It is capable of generating concrete results that may amaze some of us when this is adopted as a separate provision of the Constitution.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. May I ask one or two questions of Commissioner Ople?

MR. OPLE. Very gladly, Madam President.

MR. TINGSON. Would the Gentleman kindly explain how the "Study now, pay later" scheme would be put into implementation?

MR. OPLE. As I said, we start not from a vacuum of experience but from a foundation of genuine feasibility. This has worked on a modest scale in the past several years and which we now hope to transform into a very central kind of State assistance to students in this manner: The GSIS, SSS, PNB, Land Bank and the Development Bank of the Philippines has a loan portfolio for the "Study now, pay later" program. The university or the college makes an application on behalf of the students who had been selected by that university or college for the "Study now, pay later" principle. Then the government banks release this amount.

How do they pay back? After finishing engineering—and may I point out that the Ministry of Education, Culture and Sports has selected the courses, the emphasis which are on engineering and technical skills,but this does not mean that we are ratifying that; I am merely citing an example – and upon being employed, they start amortizing the student loans that had been granted to them.

MR. TINGSON. The loan that a student gets from this scheme cannot naturally be used for any other purpose but for his studies.

MR. OPLE. It is exclusively for his studies, in accordance with the undertaking that he signs with the university and with the Ministry of Education, Culture and Sports.

MR. TINGSON. Therefore, the term "STUDY-NOW-PAY-LATER" may not be necessary anymore in this amendment because it is understood that when he gets the loan, it would be for this "Study now, pay later" scheme.

MR. OPLE. Yes, it is included there because it helps sharpen the focus on the practice of studying now and paying later after one graduates. But I have no vested interest in that phrase.

MR. TINGSON. I remember Commissioner Natividad telling us here of his experience as a working student, that many of these working students could not get the grades that the professional students could easily get because they are working. And yet, would they be under the category of deserving students, if they come up to a certain level of grades?

MR. OPLE. Many of the 20,000 who graduated from colleges under this program were actually night students. And incidentally, Commissioner Natividad is one of the coauthors of this amendment.

MR. TINGSON. Madam President, may I just say that I support this amendment. I am just wondering, however, if that term "STUDY-NOW-PAY-LATER" could be eliminated from this particular amendment.

MR. OPLE. If the Commissioner feels strongly about that, I will have no difficulty in deleting it.

MR. TINGSON. I would propose that then, Madam President.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. In support of the position taken by Commissioner Sarmiento, may I draw attention to the fact that Section 2(c) of this article, as we have already approved it, provides:

> The State shall . . . maintain a system of scholarship grants, student loan programs, subsidies and other incentives which shall be available to deserving students in both public and private schools, especially the underprivileged.

It is our position that the proposed amendment of Commissioner Ople is not only envisaged in, but is actually covered by, the very provision of Section 2(c). I wonder if Commissioner Ople would be willing to have his proposed amendment placed in the record, especially the matter of the concessional loans on a so-called "Study now, pay later" plan as one of, if not among, those specific programs which are contemplated by Section 2(c) for enforcement and, perhaps, possible implementation in the future by legislative enactment.

MR. OPLE. Madam President, I feel that there is no real redundancy here, and if there is a burden in the minds of some regarding that, I will have no objection to its being relocated so that it follows the section concerning State assistance, including scholarship grants, loan programs and subsidies. In fact, it develops the previous sections rather than replicates them.

THE PRESIDENT. The session is suspended so that that Gentleman can confer with the committee.

MR. VILLACORTA. Madam President, the committee feels that we do not need to suspend the session and prolong the discussion. We would like to call for a vote because the committee feels that the amendment is too detailed and specific, and is covered anyway by Sections 1 and 2(c). If the honorable Commissioner is willing to withdraw his amendment, we could incorporate the sense of his laudable proposal in the interpretation of Section 2(c).

MR. OPLE. If the committee feels strongly that this should be reflected as part of the intent in the form it has been presented, I will gladly comply, Madam President.

MR. VILLACORTA. Thank you very much.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. As one of the proponents of that amendment which, I understand, has been withdrawn, may I just ask if it is the thinking of the committee that the Educational Assistance Act of 1976 which we talk of as the "Study now, pay later" plan under P.D. No. 932, is still being instituted at present and should be continued?

MS. ROSARIO BRAID. Yes.

MR. MAAMBONG. Thank you very much.

MR. VILLACORTA. Yes, Madam President, but not all the parts of the Education Act; only that part which pertains to the "Study now, pay later" scheme.

MR. MAAMBONG. Yes, I am referring to that, Madam President.

Thank you very much.

MR. ROMULO. May I ask that Commissioner Villegas be recognized for a new amendment?

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. Madam President, this may be either a new section or an incorporation in an existing approved section, depending on the decision of the committee.

The Philippine educational system, because of our colonial history, has overemphasized general education. The majority of the graduates of the tertiary schools aspire for white-collar jobs. Although unemployment rates are high, there are some technical skills that are scarce in both industry and agriculture. For example, at present there are electro-mechanic skills that are actually begging for workers but there are not enough of these trained skills. In agriculture, there is a shortage of experienced agricultural extension workers. The government has insufficient funds even for elementary education as we have already seen, and it will be further burdened with the mandate to provide free secondary education. Private institutions and foundations, on the other hand, have been effective in securing funds from the business sector in the establishment of vocational or technical schools such as the very famous Don Bosco system of technical education. These institutes have also been more successful in linking their training programs to the actual needs of industry and agriculture. So, it is not just a matter of having more vocational and technical schools, but of making sure that the ones being trained would actually be suited to the existing needs of either industry or agriculture. It is, therefore, suggested that we include a provision requiring the State to provide an atmosphere conducive to the establishment of more vocational or technical schools by private individual and groups, including cooperatives organized by workers. So the text of the proposed amendment is as follows: "THE STATE SHALL PROMOTE THE ESTABLISHMENT OF TECHNICAL AND VOCATIONAL SCHOOLS AT THE SECONDARY AND TERTIARY LEVELS ESPECIALLY THROUGH

THE INITIATIVE OF PRIVATE EDUCATIONAL INSTITUTIONS IN PARTNERSHIP WITH THE BUSINESS SECTOR AS A MEANS TOWARDS INCREASING THE PRODUCTIVITY OF BOTH INDUSTRY AND AGRICULTURE."

Thank you, Madam President.

THE PRESIDENT. Is the committee ready to react?

MR. VILLACORTA. May we request a suspension, Madam President?

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 3:56 p.m.

RESUMPTION OF SESSION

At 3:58 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. VILLACORTA. Madam President, the committee regrets that it cannot accept the amendment of Commissioner Villegas because we feel that the sense of his amendment is already included in Section 3(b). And with respect to partnership with business corporations, we could include that in the sense of Section 3(b) by emphasizing in the record that we would like to encourage business corporations to assist vocational schools. Would that be all right with the Commissioner?

MR. VILLEGAS. Yes, as long as it is in the record, I withdraw the amendment.

I thank the Commissioner. Thank you very much, Madam President.

MR. VILLACORTA. Thank you very much, Madam President.

MR. ROMULO. Madam President, I ask that Commissioner Davide be recognized to introduce his amendment.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

The proposed amendment would be item no. 4 of the proposed new sections incorporated in the committee revised draft on education alone. It will be placed anywhere as may be determined by the committee. It reads: "NO CONTRIBUTION OR EXACTION OF ANY KIND SHALL BE IMPOSED ON STUDENTS AND THEIR PARENTS OR GUARDIANS EXCEPT THOSE VOLUNTARILY IMPOSED BY THEIR ORGANIZATIONS."

MR. VILLACORTA. Madam President, the committee feels that this is a very specific amendment. However, we would like to incorporate this in the record as an aspiration, goal or desideratum shared by the committee.

MR. DAVIDE. I understand that we have this provision in the Education Act of 1982. My only point is that we have to provide this ever-continuing mantle of protection to the students and to their parents or guardians against imposition of contributions or other kinds of exaction. In the rural areas, the students or parents cannot refuse a demand for contribution, especially by the teachers. They sell tickets which is a form of exaction. So, necessarily, because of the pressure or undue influence or for fear that probably a pupil may not pass a particular subject handled by a demanding teacher, they are compelled to contribute. So I feel it is necessary that we should not allow exaction of contributions from them, but only contributions that are voluntarily agreed upon by organizations of students or parents.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. I think the consultative councils at the regional level for parents and other community members will participate in contributing to policy-making and other programs, so we do not have to constitutionalize this.

MR. DAVIDE. With the assurance that the consultative mechanisms would necessarily include the rejection of any contribution except those agreed upon by their respective organizations, I will not insist. I withdraw my amendment, Madam President, but I insist on my second proposal, which reads: "ALL EXPENSES FOR EDUCATION, AND ALL GRANTS, DONATIONS OR CONTRIBUTIONS FOR SCHOLARSHIP OR FOR ANY EDUCATIONAL PURPOSES SHALL BE DEDUCTIBLE EXPENSES FOR INCOME TAX PURPOSES, AND ANY DONATION, DEVISE OR LEGACY FOR ANY SUCH PURPOSE SHALL BE EXEMPT FROM ANY FORM OF TAX."

MR. VILLACORTA. The committee accepts the amendment, Madam President.

MR. DAVIDE. I thank the Commissioner, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I would like to express my reservations about this proposal because it is a very encompassing and absolute right of deduction, and I do not know whether or not we fully realize the implications of this provision. For example, it says: "ALL EXPENSES FOR EDUCATION." This means that anybody who claims to be spending for education can deduct the expenses for income tax purposes, and any donation, devise or legacy – I think the word "DEVISE" there is very apt because I think that is what it is going to be used for – shall be exempt from any form of tax. Does this not belong, Madam President, to tax legislation in education policy because this mandate is very general? I really do not know whether or not we fully realize all the implications of this proposal.

MR. DAVIDE. May I be allowed to respond, Madam President?

THE PRESIDENT. The Commissioner will please proceed.

MR. DAVIDE. If the fear of Commissioner Monsod is centered on the phrase "ALL EXPENSES FOR EDUCATION," probably we can reach a compromise. I might not insist on that. However, I would insist on the phrases "ALL GRANTS, DONATIONS OR CONTRIBUTIONS FOR SCHOLARSHIP OR FOR ANY EDUCATIONAL PURPOSES" and "DONATION, DEVISE OR LEGACY FOR ANY SUCH PURPOSE."

Madam President, yesterday we just approved a proposal granting exemptions from any form of taxes to revenues and all assets of educational institutions used exclusively, directly or actually for educational purposes. This is a very good encouragement to educational establishments, but we have to balance this also with a similar exemption granted to those who will voluntarily grant or donate properties or money exclusively for educational purposes. There are also devises or legacies in wills of persons, and these devises or legacies exclusively for educational purposes must also be allowed exemptions. These may be for scholarships or for the education of a particular group of citizens in a given community. For example, we may have a very rich individual in one barangay. In his last will and testament, he provides that a part of his property shall be given to a particular group of students in his barangay, so we should allow exemptions. It is not that it could be left entirely to the legislature. We know that under the Article on the Legislative, such exemptions could only be granted by a vote of a majority of all the Members of Congress. We have now two chambers of Congress, so it might be very difficult.

MR. OPLE. Madam President, will Commissioner Davide yield to a question?

MR. DAVIDE. Gladly, Madam President.

MR. OPLE. Tax donations, also called devises, in the hands of skillful lawyers can be converted into first-rate tax shelters. Therefore, will the Commissioner agree to a stipulation in that sentence which will eliminate this risk by saying that no pecuniary gains shall accrue to the source of the donation or legacy?

MR. DAVIDE. No pecuniary gains can be had. Even without that stipulation, it is obvious because a devise or a legacy becomes effective only upon the death of the testator. So by the time that it is effective, he is already dead.

MR. OPLE. And speaking of the grantor of a donation to, let us say, a school, can the chief stockholder of that college donate some property that will be indirectly still enjoyed by himself and his family after the act of donation is consummated, but without the obligation to pay any taxes because the property has been donated ostensibly?

MR. DAVIDE. In that particular case, the property actually belongs to the educational institution.

MR. OPLE. Of which the grantor is the major stockholder.

MR. DAVIDE. The only benefit that he will enjoy may be indirect in the sense that he is a stockholder. And that indirect enjoyment would, of course, not be much in the sense that the devise may be used by him to circumvent the possibility of paying a tax on the property.

MR. OPLE. There are many school corporations that are closed family corporations, Madam President, so that the degree of enjoyment can be considerably higher than what Commissioner Davide now contemplates.

MR. DAVIDE. If that is a strategy adopted by the owner of the particular property, if he donated his property to the corporation which is operating an educational institution, it is already converted as a property of the educational institution. I believe any pecuniary benefit which he may acquire would be very negligible, and besides, tax on this would not really be as much as that for income tax purposes.

MR. OPLE. This is the only form of circumvention that comes to my mind right now. I wonder if subsequent speakers will be able to offer concrete examples, but I am asking Commissioner Davide to ease the burden on our minds that this will not be a blanket loophole for cheating the government of taxes in the name of education.

THE PRESIDENT. May we hear Commissioner Bernas first so that there can be only one response from Commissioner Davide.

FR. BERNAS. Madam President, will Commissioner Davide yield to a few questions?

MR. DAVIDE. Willingly, Madam President.

FR. BERNAS. If donations and bequests are made to nonstock or nonprofit educational institutions, these are already exemptions under the provision we approved yesterday. Is that correct, Madam President?

MR. DAVIDE. No, Madam President, only that particular property already owned by the nonstock corporation. But for the transfer itself, it would be liable to an estate tax.

FR. BERNAS. But according to the amendment we approved yesterday, any revenue shall be exempt from tax.

MR. DAVIDE. But if it is by a devise or a legacy, the tax is imposed against the estate by way of an estate tax. It is not really imposed on the beneficiary.

FR. BERNAS. Precisely, the intention of the approved amendment yesterday was to exempt such things from tax.

MR. DAVIDE. I do not think the approved amendment yesterday would cover exemption from estate tax. It is only the exemption from any tax liability that is given to the nonstock corporation; such that that particular property, when already in the possession and ownership of the nonstock corporation from the time of the death of a testator, would no longer be subject to tax imposable against the nonstock corporation.

FR. BERNAS. So I take it, therefore, Madam President, that as far as the provision approved yesterday is concerned, the exemption covers only donee's tax, if there is such.

MR. DAVIDE. Right now, I do not think there is still a donee's tax.

FR. BERNAS. So there is none.

MR. DAVIDE. There is none anymore; it is the donor's tax. So it is precisely the donor's tax that we want exempted because it is a contribution to the cause of education. Why penalize somebody who is willing to part with his property for an educational purpose?

MR. NATIVIDAD. Madam President.

THE PRESIDENT. Is Commissioner Bernas through?

FR. BERNAS. Yes, that is all, Madam President.

THE PRESIDENT. Commissioner Monsod was seeking to be recognized earlier.

MR. MONSOD. Madam President, when somebody donates everything that he has to educational institutions and it is used directly and exclusively for educational purposes, what actually happens is that the donee pays the donor's tax. If the intent of the proponent is merely to give exemption to the donor's tax in such situations, then we can make the appropriate amendment by adding "INCLUDING DONOR'S TAX."

MR. DAVIDE. I welcome the proposal, Madam President. But it should also include estate tax.

MR. MONSOD. Madam President, the problem I think has been stated by Commissioner Ople – that this can be used to circumvent taxes. Unless we have fully studied this kind of exemption, I do not think we should put it in the Constitution.

MR. DAVIDE. We have the BIR that can reach out to inquire whether there has been a violation or circumvention.

THE PRESIDENT. Commissioner Natividad is recognized, followed by Commissioner Maambong.

MR. NATIVIDAD. Madam President, will the Commissioner yield to just a few questions?

MR. DAVIDE. Gladly.

MR. NATIVIDAD. Madam President, I was just thinking of an occasion that I attended and I would like to ask the Commissioner whether his proposal will have the same result if we approve it.

Last year, I attended a UP alumni meeting in Houston, Texas during which the president of the University of the Philippines appealed for donation from their alumni there. In that one night, he was able to collect $150,000 by simply appealing for donations for their alma mater. I asked the alumni why they could donate such a magnanimous amount and they said that rather than give it to Uncle Sam, they would give it to UP because of the tax exemption they enjoy in the United States. The alma maters we have in the United States have huge buildings, and in most of them there is a placard which says: "This building was built exclusively from alumni donations."

Speaking of professorial chairs and other forms of scholarships available in most of these universities, we can feel that they are based on very magnanimous donations from the alumni. So, if the Commissioner's proposal is approved, would it result to the same situation?

MR. DAVIDE. Certainly. As a matter of fact, it would encourage many of our people to contribute for scholarships, for the construction of school facilities, for professorial chairs, and these would no longer be subject to any particular transfer tax.

MR. NATIVIDAD. The problem then would be what? Commissioner Ople said that it is possible to use these as tax shelters and so on.

MR. DAVIDE. I would say that the fear is unfounded, because the BIR has the necessary means and facilities to determine whether or not a particular donation or grant is actually used for the purpose for which it was intended.

So, if there is a questioned donation or a questioned grant, the BIR can easily determine whether it was indeed used for the purpose.

MR. NATIVIDAD. Would this stir up objections from the Minister of Finance, since it will constitute less revenue for the government?

MR. DAVIDE. There may be a possible objection from the Minister of Finance. But I see no reason why we have to inquire into that, since we already approved yesterday the exemptions of all revenues and all properties or assets of nonstock and nonprofit corporations from any form of tax. So, the idea is just to have some form of symmetry. When an educational institution is allowed exemptions for all its properties and revenues, we must also give exemptions to those who would voluntarily give their property for educational purposes or for scholarships.

Today, we have many alumni associations annually campaigning for donations and forms of assistance for the students, for professorial chairs or for facilities. They do not get anywhere because they donate and they pay taxes for the donations.

So, based on the Commissioner's explanation, I agree with him that this might constitute a solution to this problem of getting more help for academic activities in universities and colleges.

Thank you, Madam President; I also thank the Commissioner for his support.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, may I ask the proponent whether he will insist on his proposed amendment if I will tell him now that under the present law, the exemption he seeks is already provided for. Let me quote:

> Presidential Decree No. 69, Section 30: – *Deductions from gross income.* – In computing net income there should be allowed as deduction – 1. any donation made to any school, college or university recognized by the government either for general or special purposes: provided, that said donation is not for the payment or granting of a salary increase, bonus or personal benefits to any or all of the school officials, faculty, and personnel in case of a public school or to any of its stockholders, school officials, faculty, and personnel in case of private schools.
>
> Such contribution or gift shall be allowable as deductions only if verified under the rules and regulations prescribed by the Secretary of Finance.

Incidentally, the deduction is in full; it is not given by percentage. It is a full deduction in the computation of net income. In other words, is the Commissioner saying that he is only constitutionalizing this provision which I am now relating to him?

MR. DAVIDE. For one, yes.

MR. MAAMBONG. Then if that is the Commissioner's purpose, I would rather say that we will just have to rely on the law; we do not have to constitutionalize it.

Thank you.

MR. DE LOS REYES. Madam President.

MR. NOLLEDO. Point of information, Madam President.

THE PRESIDENT. We hear from Commissioner de los Reyes first, and then Commissioner Nolledo.

MR. NOLLEDO. Thank you.

MR. DE LOS REYES. Will Commissioner Davide accept an amendment to his amendment?

MR. DAVIDE. I would be willing to, if I am given a chance to hear the amendment first.

MR. DE LOS REYES. I am with the Commissioner in his proposal but then we have to allay the fears of some of our colleagues who think that this could be used as a tax shelter. Therefore, my amendment will be to preface Commissioner Davide's amendment with the words "SUBJECT TO CONDITIONS AS MAY BE PROVIDED BY LAW."

MR. DAVIDE. It is accepted.

MR. DE LOS REYES. Thank you.

MR. NOLLEDO. Point of information, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. *(. . . Deleted by order of the Chair.)*

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. *(. . . Deleted by order of the Chair.)*

THE PRESIDENT. So this matter can be subject of legislation, is that correct?

MR. DAVIDE. It is subject to the conditions.

SUSPENSION OF SESSION

MR. MONSOD. Madam President, may we be given a few minutes to see whether we can work out a resolution here?

THE PRESIDENT. The session is suspended.

It was 4:23 p.m.

RESUMPTION OF SESSION

At 5:02 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. VILLACORTA. Madam President, Commissioner Davide will present his revised amendment.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, after consultations, we are now happy to submit the following modified amendment and the principal coauthors of this are Commissioners de los Reyes, Monsod, Natividad, Ople, Maambong and Guingona.

It will be inserted in the Article on Education, or in any appropriate place by the Committee on Style or the Committee on Sponsorship. It will read: "SUBJECT TO CONDITIONS PRESCRIBED BY LAW, ALL GRANTS, DONATIONS OR CONTRIBUTIONS USED ACTUALLY, DIRECTLY, AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES SHALL BE EXEMPT FROM TAX."

MR. VILLACORTA. The committee accepts the amendment, Madam President.

MS. ROSARIO BRAID. Madam President.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MS. ROSARIO BRAID. Madam President.

MR. SUAREZ. I yield to the Lady, Madam President. I heard a Lady speaking.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Will Commissioner Davide entertain a few clarificatory questions?

MR. DAVIDE. Gladly.

THE PRESIDENT. The Commissioner may proceed.

MS. ROSARIO BRAID. Will these donations also refer to contributions to projects on nonformal education, such as the development of a program base for distance learning systems, establishment of community learning centers and other projects on nonformal education?

MR. DAVIDE. The nonformal and formal educational systems fall within the same educational technique. Hence, donations for educational purposes, whether formal or informal education, would be covered.

MS. ROSARIO BRAID. Thank you. I just want that in the record so that it is not only meant for schooling or formal education.

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. May we also place it on record that the word "donation" is used in the generic sense to include legacies and devises.

MR. DAVIDE. Yes, *mortis causa* and *inter vivos* donations are included.

MR. DE LOS REYES. And that educational purposes would include scholarship?

MR. DAVIDE. Yes.

MR. DE LOS REYES. Thank you, Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President. This is only to clear up some points. Does the exemption fall on the part of the grant, donation or the legacy itself?

MR. DAVIDE. Grants, donations or contributions.

MR. SUAREZ. Yes. In other words, the ones making the contributions and the ones making the grants are not entitled to tax exemption.

MR. DAVIDE. The donors are the ones entitled because we still have the donors' taxes, and if it would be legacies, devises or *inter vivos* donations, we still have the estate tax and, therefore, the State will be exempt from the payment of the estate tax.

MR. SUAREZ. So, in other words, if for example, I donate P10 to educational institutions to be used directly and exclusively for educational purposes, I would be exempt from the payment of taxes.

MR. DAVIDE. From the donor's tax, but I do not think the Commissioner will donate only P10.

MR. SUAREZ. That is only an example. However, the meaning is clear that the donor, the grantor or the contributor would be exempt from payment of taxes.

MR. DAVIDE. That is correct.

MR. SUAREZ. Thank you.

MR. TINGSON. Madam President, may I ask a few questions?

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. The Commissioner used the words "DIRECTLY, EXCLUSIVELY AND ACTUALLY."

MR. DAVIDE. Yes.

MR. TINGSON. Would the word "EXCLUSIVELY" not take care of the two others?

MR. DAVIDE. No, this is to align also to the exemption granted to nonstock and nonprofit educational institutions, as well as to the particular subsection in Section 29 of the Article on the Legislative. When we granted these exemptions, we had the qualifications that the same words "DIRECTLY, ACTUALLY AND EXCLUSIVELY" shall be used.

MR. TINGSON. Thank you. The Commissioner admits that there are big institutions of learning in this country that are making fairly good profits. Is this true?

MR. DAVIDE. There may be. I cannot be very positive in my answer now because I really have not inquired into the financial standing of these educational institutions.

MR. TINGSON. Does the Commissioner presume that those who donate are doing this for altruistic motives and purposes and not for trying to go around the tax laws?

MR. DAVIDE. Good faith is always presumed.

MR. TINGSON. So, when one donates to a university that is making good profits, then, would he also be entitled to some returns for this money he donates?

MR. DAVIDE. I am not in a position to answer categorically that question. It all depends on the particular arrangement between the donor and the donee. The one exempted here is the donor. In that particular case, he is exempted from paying the donor's tax.

MR. TINGSON. I see, but then he will not be prohibited from receiving in return whatever profits there might be. In other words, he becomes as if he were a stockholder.

MR. DAVIDE. If he receives profits from that particular institution, it means that he belongs to that institution, probably as a stockholder. Any dividend which he may receive would be subject to the income tax.

MR. TINGSON. I see. Only the dividends that he receives. But the actual money or amount of money, say, P2 million, that he donates there would be exempted from tax.

MR. DAVIDE. It is not really the amount that is exempted. It is the act of donation, that is why there is a donor's tax for the transfer of the particular property by donation.

MR. TINGSON. Thank you.

MR. DAVIDE. The tax is not to the extent of P2 million. There are graduated scales of imposing the donor's tax.

MR. TINGSON. Thank you.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. The way I understand it, this constitutional provision is not self-implementing. In other words, after the Constitution is ratified and takes effect, an implementing legislation setting the conditions will have to be enacted before this provision takes effect.

MR. DAVIDE. That is correct. But I understand from Commissioner Maambong that there are already certain laws allowing such exemptions. So, these laws may be rendered still operative until Congress may provide for some other conditions.

MR. RODRIGO. Although Commissioner Nolledo said that these presidential decrees have been repealed. So, in case these PD's have been repealed, we will have to wait for another implementing legislation setting up the conditions before this provision is implemented.

MR. DAVIDE. If it is true that the decrees had been repealed, then Congress shall have to prescribe the conditions.

MR. RODRIGO. Thank you.

SR. TAN. Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. Take it for what it is worth. But during the break, I was curious to find out who was correct, Commissioner Nolledo or Commissioner Maambong. And so I called up the BIR and asked if there was any tax for donors who donate to educational institutions. The BIR asked me why and I told them we are discussing the matter. The BIR asked, "Why are you going to put that in the Constitution? We have been doing this." It is already in the Code and the BIR has been giving tax exemptions automatically.

MR. RAMA. As the last speaker, I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Actually, this is only a suggestion by way of amendment, Madam President. It could be either substitution or addition. In most educational institutions in the United States, they do not speak of grants but of endowments, let us say, a scholarship grant from the university to the students.

MR. DAVIDE. Can we have it as an addition and not a substitution?

MR. SUAREZ. I have no objection to that. Would the Gentleman entertain the idea of including the word "ENDOWMENTS"?

MR. DAVIDE. I am willing to accept.

MR. SUAREZ. "Donations or contributions."

MR. DAVIDE. Yes.

MR. SUAREZ. Thank you.

MR. RAMA. The body is ready to vote, Madam President.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I did not hear what Commissioner Tan said. She said that she consulted her brother, but as far as I am concerned, the exemption refers only to the first P1,000 as provided in the National Internal Revenue Code, unless the President has amended the Code. I am referring to P.D. No. 69 that was cited by Commissioner Maambong and that provision was really repealed by a subsequent decree.

With due respect to the BIR Commissioner, unless there is a new executive order by the President, I beg to disagree because there is an exemption, Madam President, on donor's tax up to only P1,000. That is why in order to avail of this exemption, they create a lot of donations from different persons not exceeding P1,000 each. That is going around the law.

There is no specific provision in the National Internal Revenue Code granting exemption to endowments given to educational institutions. I am not aware of any such provision. Besides, I am talking of the particular provision that Commissioner Maambong was citing. I am not citing any other provision. He is talking of deduction from gross income, not of exemption from the donor's tax. That is why Commissioner Tan should have clarified this matter with her brother who is an incumbent commissioner of the BIR. I am teaching the subject — pardon me for the braggadocio — and I have written some books on this subject, Madam President. *(Laughter)*

MR. GUINGONA. Madam President, I think the committee is ready to call for a vote. We are asking that the matter be placed to a vote.

THE PRESIDENT. Yes. Was that accepted by the committee?

MR. GUINGONA. Yes, by our chairman, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of the proposed amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 27 votes in favor, 3 against and 2 abstentions; the Davide amendment is approved.

MR. RAMA. Madam President, I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Madam President.

Based on the interpellations and the committee's approving the proposed amendment on sports in principle, I propose the following under the subsection on sports: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY. ALL SCHOOLS, COLLEGES AND UNIVERSITIES, PUBLIC AND PRIVATE, SHALL UNDERTAKE REGULAR SPORTS ACTIVITIES, ATHLETIC COMPETITIONS IN ORGANIZED LEAGUES, FROM BARRIO, MUNICIPAL, PROVINCIAL, REGIONAL TO NATIONAL SPORTS PROGRAMS," and then as suggested by the committee, I am adding "IN COOPERATION WITH ATHLETIC CLUBS AND OTHER SECTORS.

THE PROMOTION OF AMATEUR SPORTS, AS DISTINGUISHED FROM PROFESSIONAL PLAYERS, SHALL BE PROVIDED BY LAW, INCLUDING THE TRAINING OF NATIONAL ATHLETES FOR OLYMPIC GAMES." We eliminated the words "Asian and World" as suggested by the committee.

That is all, Madam President. I hope there will be no further discussion on this.

THE PRESIDENT. What does the committee say?

MR. VILLACORTA. Madam President, we have already distributed the committee proposal which is almost identical with the amendment of Commissioner Padilla.

MR. PADILLA. Yes. I noticed that the committee suggested the phrase "throughout the country." I believe that my original proposal specifying the sports program in all the schools, public and private, mentioning the different levels – barrio, municipal, provincial, regional and national – will be more clear and more specific than the phrase "throughout the country." I also inserted, as suggested by the committee, the phrase "IN COOPERATION WITH ATHLETIC CLUBS AND OTHER SECTORS."

MR. VILLACORTA. Madam President, the committee accepts the amendment.

MS. NIEVA. Madam President.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. I am all for the promotion of sports as a very valuable aid to the total formation of our youth; but since we have always been told that the Constitution should not go into detail on matters that are properly more in the domain of legislative action, I was wondering whether or not the first paragraph already says it all – that it would include all of these sports activities, leagues and the training of national athletes for Olympic competitions. I was always under the impression that details like these do not belong to the Constitution. I do not know whether we are making some kind of an exemption now.

THE PRESIDENT. Is the Commissioner proposing to delete the two paragraphs?

MS. NIEVA. Personally, my opinion, if it is worth taking, is that the first paragraph states it all and it is all-encompassing.

THE PRESIDENT. What does Vice-President Padilla say?

MR. PADILLA. Madam President, the original committee report included this under Section 2(i) and after that first sentence in this committee report, it says:

> The State shall provide opportunities for participation involving all sectors and assure the teaching and practice of physical education and sports in the curricula of the national educational system.

I suggested that the sentence be deleted during the period of interpellations. And with regard to words, there is hardly any difference between the original provision and my two paragraphs, except that my suggestion is more specific and clear.

Madam President, I have answered that one observation of Commissioner Suarez that my language in the Constitution is always an attempt to be short, clear and concise. I have adhered to that. In fact, I have objected to many provisions where there are too many details that should be left to the legislature. But in this particular case, Madam President, the development of sports cannot be undertaken by just a course in the curricula of the national educational system. The development of sports will require, in addition, competition through organized leagues as much as possible from the lowest level to the highest, because then student athletes who show some potentials for further development may rise above municipal, provincial, regional to national qualification. And the ultimate goal of an amateur student athlete is to qualify in the national team for Olympic games.

I believe that this proposal is short enough, concise and specifies the steps necessary to realize the promotion and development of sports.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Padilla yield to just a question?

MR. PADILLA. Gladly.

MR. OPLE. Depending on his answer, I may decide on whether to propose an amendment or not.

Madam President, does this section now before the body state forthrightly the values of sports, including individual discipline, excellence and cooperation — especially team cooperation? What I have in mind, Madam President, is the saying that at the apogee of the British empire, their success in arms and in colonial administration was previously decided in the playing fields of Eton which, I think, was one way of saying that sports fosters initiative, individual discipline, teamwork and excellence. That is the reason we should allocate the highest priority to sports and physical education.

Without having to bother for the moment about the conciseness of this first paragraph, will Commissioner Padilla consider an amendment, more or less, as follows: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF INDIVIDUAL DISCIPLINE, COOPERATION AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY"?

MR. PADILLA. Madam President, if I accept the amendment, I could be accused of adding or making it more lengthy. But it is true, as Commissioner Ople says, that in the development of sports, one must have self-discipline; one must have continuous training; one must follow instructions and have cooperative teamwork, always leading to excellence as a result of systematic and consistent training. A student athlete cannot be a university athlete unless he has those qualities of self-sacrifice, of submission to discipline and rigorous training. The objective which I always wish to inculcate, is that the greatest goal of an amateur student athlete is not only to represent the university in the national league but also to qualify as a member of the national team to compete in Asian and, if possible, Olympic games.

MR. OPLE. Therefore, Commissioner Padilla might also agree that the emphasis given to sports in the old Greek confederacy, at the time of the birth of what we now call democracy, was compatible with the spirit of freedom, tempered by the spirit of discipline and performance, so that we never heard of the Olympics before the Greeks. They were the first to systematically organize sports in aid of the over-all human development for excellence.

MR. PADILLA. That is correct, for excellence especially. But physical excellence, in particular sports events, must be the result of years of training, self-discipline, self-sacrifice and all these virtues that would make a student athlete a better man who will aspire for physical excellence, otherwise, he cannot reach the status of a varsity athlete and much less, a member of a national team.

MR. OPLE. Yes. In that case, may I invite Commissioner Padilla, the author of this section, to join me in taking the risk that in inserting the values of sports in this already concise first paragraph, we may actually be able to convince the committee and the Commission that it certainly does not add to the bulk of the sentence and it does not detract from the strength of the sentence, but it does contribute a new spiritual and moral dimension and a democratic dimension to the definition of the objectives of sports in that sentence.

So that the amendment, Madam President, reads as follows: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCIPLINE, TEAMWORK AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY."

MR. PADILLA. I have no objection; I accept. However, I wish to say that this first sentence is a verbatim reproduction of the committee report.

MR. OPLE. Yes, I also invited the committee to consider it.

THE PRESIDENT. What does the committee say?

MS. ROSARIO BRAID. The committee accepts; but may I just ask one clarificatory question. Firstly, may I say that the committee also has its alternative, edited version based on the Commissioner's provisions which I hope we can harmonize.

Secondly, would the Commissioner's concept of sports include indigenous sports like *sipa,* yo-yo and that these provisions also include the encouragement of indigenous sports?

MR. PADILLA. It does not exclude; we can cultivate and promote native sports. But when I mentioned "Olympic games," we have to give emphasis on athletics, that is, track and field, swimming and other individual events, as well as other group or team events which are recognized throughout the world as parts of the program of the Olympic games.

MR. OPLE. I thank the Commissioner and the committee for accepting the proposed amendment.

Thank you, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. With the acceptance of the proposal of Commissioner Ople, would we now in effect constitutionalize the objectives of P.D. No. 604, which created the Department of Youth and Sports Development on December 10, 1974? The decree enjoins all schools to implement a vitalized physical development program that shall purposely aim to develop in students greater stamina, physical strength and endurance and habits of discipline requisite in the New Society. It is no new society but the thrust is practically the same as that of P.D. No. 604.

MR. OPLE. Madam President, I would like to insist on the text of my proposed amendment to Commissioner Padilla's amendment which has been accepted.

THE PRESIDENT. What does Commissioner Padilla say?

MR. OPLE. I refer to a spiritual and moral dimension to sports.

MR. PADILLA. For the information of the body, will Commissioner Ople restate the additional words?

Madam President, those words that were suggested by Commissioner Ople are not the words in P.D. No. 604.

MR. OPLE. No, I borrowed words from Commissioner Padilla, "SELF-DISCIPLINE" for example.

MR. PADILLA. "SELF-DISCIPLINE" is very good.

MR. OPLE. Yes. So, it will now read: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCIPLINE, COOPERATION AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZEN."

MR. PADILLA. Accepted.

MR. OPLE. Thank you.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Inspired by the usual Padilla formula of constitutional brevity and conciseness, may I respectfully join Commissioner Nieva in her proposed amendment to delete paragraphs 2 and 3. I humbly submit, Madam President, that paragraph 1 covers comprehensively paragraphs 2 and 3, with due respect to our Vice-President.

THE PRESIDENT. Are there any other comments? Are we now ready to vote?

MR. RAMA. The body is ready to vote on the anterior amendment of Commissioner Nieva, if she insists.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. I think Commissioner Nieva's amendment is a prejudicial issue which we have to resolve before voting on the Ople amendment and other amendments.

THE PRESIDENT. Commissioner Ople's amendment is only with respect to the first paragraph.

MR. RAMA. We can vote on the first sentence, Madam President.

THE PRESIDENT. But there is an amendment to delete the second and third paragraphs.

MR. FOZ. Madam President.

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. In case the Nieva amendment is lost, may we still present amendments to the Padilla amendment?

THE PRESIDENT. Yes. In other words, the draft stays as is because the second and third paragraphs have not been deleted. All right, are we now ready?

MR. PADILLA. Madam President, I think it is better, if there are proposed amendments to paragraphs 2 and 3, that we hear these amendments.

VOTING

THE PRESIDENT. We shall take those up later on.

As many as are in favor of the proposed amendment of Commissioners Nieva and Sarmiento to delete the second and third paragraphs of the Padilla amendments, which by the way have been accepted by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 20 votes in favor and 13 against; the proposed amendment is approved.

Now, we can proceed to vote on the first paragraph, the opening sentence of Commissioner Padilla's proposed amendment which has been amended by Commissioner Ople and which I suppose is still open for any other amendments.

Are there any amendments? *(Silence)* The Chair hears none; will Commissioner Ople read the first paragraph?

MR. OPLE. May I, in behalf of Commissioner Padilla and the committee, read the first and only paragraph now: "THE STATE SHALL PROMOTE PHYSICAL EDUCATION AND ENCOURAGE SPORTS PROGRAMS TO FOSTER THE VALUES OF SELF-DISCI-

PLINE, TEAMWORK AND EXCELLENCE AND FOR THE TOTAL DEVELOPMENT OF A HEALTHY AND ALERT CITIZENRY."

VOTING

THE PRESIDENT. This has been accepted by the committee.

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 32 votes in favor and 1 against; the amendment is approved.

MR. SARMIENTO. Madam President, upon insistent and urgent request of a colleague, Commissioner Nolledo, may I respectfully move for the deletion of statements, remarks or manifestations connected with P.D. Nos. 69 and 1459 which were started by Commissioner Maambong.

MR. SUAREZ. May I have the honor of seconding the motion, Madam President?

THE PRESIDENT. Is there any objection? Are there any comments?

MR. OPLE. Madam President, may we seek some light concerning the rationale behind this request?

MR. NOLLEDO. Madam President, I hope the body will understand our situation because there were some embarrassing statements made. I think it is within the power of this body to grant the motion.

I ask Commissioner Ople, being my personal friend, to kindly not object to the motion.

MR. OPLE. I am withdrawing my objection. I did not intend to object, but I think we are trained in this body to ask for reasons, and that is all. But since my friend, Commissioner Nolledo, has spoken, and I could divine the reason without his telling me, I withdraw any objection to the motion.

MR. NOLLEDO. Thank you very much.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. May we request the Chair to authorize the body to propose and discuss amendments to Section 1 of the subsection on language.

MR. RAMA. There is a pending motion, Madam President.

MR. NOLLEDO. Madam President, there is a pending motion, with due respect to Commissioner Villacorta.

MR. OPLE. May I support Commissioner Nolledo's request.

MR. NOLLEDO. There is a pending motion on the part of Commissioner Sarmiento upon my request. May we ask the body?

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. The understanding, of course, Madam President, is that what is supposed to be deleted are the statements of Commissioner Nolledo and myself after my statements interpellating Commissioner Davide. Those are the only statements which we would like to be deleted.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 5:42 p.m.

RESUMPTION OF SESSION

At 5:47 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

We have before us the motion of Commissioner Sarmiento. Will Commissioner Sarmiento please restate his motion for the guidance of everybody?

MR. SARMIENTO. Madam President, may I move that we delete all discussions pertaining to P.D. Nos. 69 and 1459 which were started by Commissioner Maambong?

THE PRESIDENT. Is there any objection?

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. May I know the reason for the motion, Madam President.

THE PRESIDENT. Will Commissioner Sarmiento give the reason.

MR. SARMIENTO. Madam President, Commissioner Nolledo stated a while ago that to prevent embarrassment and shame, those remarks should be deleted from the record.

MR. DE CASTRO. Madam President, there have been many citations on the floor, and I have been keeping track of all of these numbers to determine whether they are truthfully the number of the presidential decree, the republic act, or of the commonwealth act mentioned. And so, if we are withdrawing these, I will go home and check because I want a truthful discussion on the floor. Since my colleague here is requesting that those remarks be deleted, I asked for the reason.

Thank you, Madam President.

THE PRESIDENT. Thank you.

Is there any objection to the motion of Commissioner Sarmiento?

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. If there should be a motion for deletion for some reason or another, I believe it should be done by the Commissioners concerned, not by any other Commissioner who has not been involved in that interchange. If Commissioner Nolledo or Commissioner Maambong agreed to delete their exchange of words, I would have no objection but I believe the motion for deletion should not be presented by any other Commissioner who has not been involved in that exchange of remarks.

THE PRESIDENT. So it would appear that the motion has the conformity of the Commissioners concerned, Commissioners Maambong and Nolledo.

MR. NOLLEDO. In that case, to obviate the objection of Commissioner Padilla, Madam President, I am reproducing the motion of Commissioner Sarmiento in order to avoid any misunderstanding for purposes of posterity.

THE PRESIDENT. Does Commissioner Maambong agree?

MR. MAAMBONG. Yes, Madam President, but I have been talking with Commissioner Davide and what we have agreed upon is that my exchange of interpellation with Commissioner Davide should remain because that has nothing to do with our exchange of remarks with Commissioner Nolledo. When Commissioner Nolledo made his intervention and then I made a statement, those are the words which are supposed to be deleted because Commissioner Davide does not also agree that his reply to my intervention would be deleted. That is my understanding.

MR. NOLLEDO. I have no objection to that, Madam President.

THE PRESIDENT. Are there any other comments? *(Silence)* The Chair hears none.

Is there any objection to the motion? *(Silence)* The Chair hears none; the motion is granted.

Let the proper deletion be made.

MR. NOLLEDO. Thank you, Madam President.

MR. VILLACORTA. Madam President, may we now request amendments to the proposal of the Committee on Language? And may we request the committee to read the proposed Section 1?

THE PRESIDENT. Please proceed.

REV. RIGOS. Madam President, copies of the proposals have been distributed.

THE PRESIDENT. Was there any change made?

REV. RIGOS. As far as this new sheet is concerned, there is no change, Madam President. And so, the committee is now ready to accept any proposed amendments.

MR. VILLACORTA. Just for the record, Madam President. The chairman of the Subcommittee on Language is Commissioner Cirilo Rigos.

MR. FOZ. Madam President, may we be recognized?

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. May we make the reservation that we would like to submit a further amendment to that provision regarding sports? May we be given a chance to present it tomorrow or later?

MR. VILLACORTA. Surely, if the Chair allows it.

MR. FOZ. Madam President, I have an amendment to that provision which we have approved earlier.

THE PRESIDENT. Which one?

MR. FOZ. The provision regarding the promotion of physical education and the encouragement of sports programs. I have a further amendment to submit and I would like to make the reservation that I be allowed to make that presentation later.

THE PRESIDENT. Can we not take that up now?

MR. FOZ. I am having the amendment typed so that the words can be presented in a better light.

THE PRESIDENT. In other words, Commissioner Foz is making a reservation to submit a motion for reconsideration of the approval of that particular section on sports in order to introduce certain amendments.

MR. FOZ. Yes, Madam President.

THE PRESIDENT. All right.

MR. FOZ. Thank you.

MR. RAMA. Madam President, may I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, before doing that, I would like to find out what should be the basis for our proposed amendments. When the committee submitted its committee report, I introduced an omnibus amendment including language, arts and culture, science and technology. This afternoon, however, the committee submitted to us recommended provisions on language consisting now of four sections.

REV. RIGOS. May I answer that, Madam President? The committee had a meeting last night after our session and that one-paper document submitted to the Chair is the result of our meeting last night. That now takes the place of the two sections in the old draft. So, for the purpose of our discussion tonight, we are using that one-page document with four sections, Madam President.

MR. DAVIDE. So, the committee is now submitting that document as its own revised report on language.

REV. RIGOS. Yes.

MS. AQUINO. Madam President, prejudicial question.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I think that the section on language presents a vague question which might trigger a long-winded debate.

Considering the lateness of the hour, I would like to suggest to the committee that we address ourselves to the less controversial provisions, for example, on science and technology, and reserve the debate on language for tomorrow.

MR. DAVIDE. I second that particular suggestion precisely because earlier the committee, without leave of the Commission, submitted its own amended report on language. We were already prepared with the set of amendments to the original committee report on language. So it would be rather unfair to us if we will now begin immediately on amendments on the basis of the new committee version.

So, may I propose that we take up the provisions on language tomorrow in the interest of justice and fairness.

THE PRESIDENT. Yes. But may we, at least, hear the committee on what are the salient provisions in this new committee report on language? May we have some remarks on this?

MR. VILLACORTA. Madam President, actually this revised proposal sought to incorporate the different amendments either written or verbally articulated by the different Commissioners, and we have accommodated their suggestions. Hence, we would like to insist that we start discussing Section 1 at least of this section on language to save time. We are being accused of dragging on in our work in the Commission. The committee is ready with these four sections on language and we do not see any reason why we should defer the discussion on this section.

THE PRESIDENT. May we have the salient points in Section 1, Mr. Chairman?

MR. VILLACORTA. The salient points, Madam President, include the name of the national language which is identified as Filipino with an F; the steps to be taken by the government in using it as a medium of communication and instruction are also stipulated. Another salient point is the use of the regional language as auxiliary medium of instruction. Lastly, English is stipulated as a second language and as an alternative medium of instruction.

We feel, Madam President, that these are not very controversial, and since the body has a copy of our proposal, we can straight away come up with amendments. And if there are further questions or there is need for clarification, we could provide that clarification tonight, Madam President.

THE PRESIDENT. Are there any comments for instance on lines 1, 2 and 3 – the national language of the Filipinos? Is there anyone who would like to speak for or against this particular sentence?

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I briefly speak against this amendment?

THE PRESIDENT. Please proceed.

MR. SARMIENTO. I am against the committee's amendment that the national language of the Philippines is Filipino. I am for the retention of the phrase or the words in the 1973 Constitution, which says that the national language of the Philippines shall be Filipino. From the interpellations made by Commissioner Davide, it was shown that no efforts were made by the Philippine government towards making Filipino our national language. An article was written by Professor Leopoldo Yabes, a well-known linguist and UP professor in Linguistics, that indeed no efforts were made by the government in order that Filipino, with emphasis on F, should be our national language. Therefore, "shall be," not "is," should be used in this first sentence.

MR. VILLACORTA. The position of the committee, Madam President, is that there is a living *lingua franca* which can be called Filipino. It is that *lingua franca* that is used by citizens of the Philippines who use different native languages or dialects. So, if a Cebuano and an Ilocano meet each other in any place of the Philippines, they would use this *lingua franca,* which we call Filipino. We call it Filipino and not Pilipino because it is not exactly Tagalog, because Tagalog is a pure form. In fact, Pilipino, according to linguists who attended our hearings, is even purer than Tagalog because it tries to coin words which are not really used. Therefore, it is not true that despite the fact that the government has not really taken resolute steps to develop the national language known as Filipino, there is no such language to speak of. It is a living *lingua franca,* according to the resource persons whom we invited to our public hearings.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I would like to speak briefly in support of the committee formulation on Section 1.

THE PRESIDENT. The Gentleman has three minutes.

MR. OPLE. The national language of the Philippines is Filipino, which shall be further developed on the basis of Philippine and other languages. For political reasons, Madam President, we have temporized as a nation with the issue of the national language since the 1935 Constitution. As a matter of fact, at the onset of the American occupation of the Philippines, I believe it was the Taft regime, the first civilian government in 1903, that prescribed in effect the use of English as the principal medium of communication in the Philippines. And for understandable reasons prior to that, some of the historical scholars in this hall will remember the argument against Philippine independence emanating from American scholars themselves, including the infamous Dean C. Worcester who wrote two volumes of *The Philippines' Past and Present* just to denigrate the Philippine Revolution of 1896 and the Philippine Republic of 1899. What did Worcester say about the Aguinaldo Republic, the Malolos Republic? He said that this was a Tagalog military oligarchy with some help from the Pampango and the Ilocano oligarchy, and the intention was very clear – to divide the people of Luzon and the people of the Visayas and Mindanao. And yet, who can gainsay the fact that the Visayas and Mindanao took their own leading roles in the Philippine revolution? There may be fewer monuments in the Visayas, but Gen. Leon Kilat of Cebu ought to deserve a monument there because he fought the American army in Cebu. There was a Negros Democratic Republic existing simultaneously with the Malolos Republic, at the same time acknowledging the primacy of the republic in Malolos at that time. They refused to be dissuaded by the Americans from believing that we had a central revolutionary government at that time. Gen. Juan Araneta, I think, was the leader of that republic in Negros.

The only reason I am bringing this up, Madam President, is that the languages had gone through a tortuous course. In 1898 and 1899, the language of the Malolos Republic was bilingual; it was both in Tagalog and in Spanish. But with the loss of the republic, it was inevitable that the Americans with their superior paraphernalia of culture and arms or arms and culture, had to insist on supplanting the native languages with their own tongue if only to symbolize most effectively the triumph of their colonial conquest, and perhaps to demean the Filipino people in their own eyes. There is a saying that, first, one has to believe in the superiority of an alien culture before he can be truly subjugated. And the outright suppression of the Philippine languages at that time was part of that scheme in order to demonstrate the overwhelming cultural superiority of the newcomer, the new colonial power, over the native inhabitants. But in 1935, our ancestors did take that singular step of providing a national language in the Constitution. In the Constitutional Convention of 1971, there were charges articulated to the effect that Quezon, Laurel and Recto confabulated in the Style Committee in order to change the formulation of the national language. Instead of saying it should be based on the existing native languages, according to those accusers, Quezon, Laurel and Recto changed this by saying that it is based on one of the existing native languages. We do not have the proof of this accusation, Madam President.

At any rate, acting on the constitutional principle on a national language developed in 1935, the Institute of National Language was established in 1940. Please bear in mind that the majority of the people who sat in the board of the Institute of National Language, including the first director, Jaime de Vera from Leyte, were preponderantly non-Tagalogs. Beginning in 1940, we have had this national language based on one of the existing native languages and later on a Visayan minister of education changed this word "Tagalog" into "Filipino." I think he was from Negros Occidental.

THE PRESIDENT. I am sorry to interrupt, but the time, I believe, has expired.

MR. OPLE. May I wind up then. I was trying to request assistance to remember. . .yes, Minister Romero, the Secretary of Education, changed the word "Tagalog" into "Filipino," and since that time this language has evolved. We are not happy about the restrictive manner, according to some, in which this has developed, but "Filipino" here is just a proclamation of an already existing fact. "Pilipino" has been transformed into "Filipino" with a capital F. It is a code word for a highly liberalized Filipino, open-ended, not only ready but eager to accept contributions from Cebuano, Pampango, Ilocano, Hiligaynon, Tausog and all the other languages of this country. And, therefore, it is to be distinguished from Pilipino as a more static, already finished product. This is a growing, living product, as I said, eager to embrace and assimilate all possible authentic contributions from the other languages of the Philippines.

And so, I support the committee in acknowledging now this reality. It is about time that we settle this. This is a rare opportunity when there is an upsurge of nationalism in our own land and a cry for unity, solidarity and peace based on justice. Therefore, I strongly urge, Madam President, that we support Section 1 as formulated by the committee.

Thank you.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized to speak *en contra.*

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

The question here is not whether or not we have a language known as Filipino. The question is the formulation because we easily notice in the formulation of the committee, Madam President, that what it describes now as Filipino with an F is actually "Pilipino" which is based on Tagalog. Section 2 now has deleted "Pilipino" as an official language. In the 1973 Constitution, the official languages are Pilipino with a P and English; the national language shall be known as "Filipino," and the Batasang Pambansa was mandated to evolve that common national language to be known as Filipino.

THE PRESIDENT. So where does the Gentleman differ really from the committee?

MR. DAVIDE. The committee now in effect would want to enshrine Pilipino as the Filipino. That is why Section 1 now is written in such a way that the Pilipino before would now be called Filipino which is the common national language. This is the fact: The *lingua franca* in the Philippines is not Filipino, and I can challenge anyone on this. How could it be the *lingua franca* when only the University of the Philippines has offered the subject known as Filipino? In the entire educational system – I am referring to public and private educational systems – other than the University of the Philippines, the subject taught is Pilipino, not Filipino. And it would really be a deception to consider now the official language known as Pilipino as the Filipino.

And so, Madam President, all the statements to the effect that when a Cebuano meets a Tagalog, they speak in the *lingua franca,* is not true. I am a Cebuano. For instance, when I talk to a Tagalog, I always talk in English because I cannot talk in Tagalog. And English, therefore, between the Tagalog and myself would be the *lingua franca.* Mention was made that when Filipinos meet abroad, they speak in the *lingua franca* known as Filipino. That is a very sweeping conclusion. None of us here ever observed Filipinos abroad talking in a *lingua franca.* Has any of the members of the committee gone to Saudi Arabia or to the Middle East and listened to a Cebuano and a Tagalog talking together? And for them now to conclude that in Saudi Arabia or the Middle East the language spoken between a Cebuano or a Waray or an Ilonggo and a Tagalog would be a *lingua franca,* would be a sweeping conclusion. Even right here in Metro Manila, right here in the Commission itself, are we talking in a *lingua franca* other than English? We debate in English. That is the *lingua franca* in the Commission.

And now, why mandate such a language known as Filipino to be the official language? It would be unfair to the other regions. I am not speaking as a Cebuano, I am speaking for all others who have not been heard by the committee in the course of their public hearings. Has any expert on Cebuano, on Waray or on Ilonggo been invited to the committee? None. In the public hearings in Mindanao and in the Visayas, what do they want as a national language? They even opted for Cebuano because 24 percent of the entire population speak Cebuano. Many more can understand Cebuano. So, even if we review the results of the public hearings in the Visayas and Mindanao, it can easily be shown that the people opted for a language not even known as Filipino, as the national language.

I only wish that we either adopt the proposal of Commissioner Sarmiento to reformulate the first sentence in the manner this similar provision is stated in the 1973 Constitution or mandate Congress to fully develop and enrich this common national language to be known as Filipino on the basis of native languages and any other language for that matter. And to implement that particular mandate, there shall be established a Commission on National Language. It is only then that we can formally adopt Filipino as the national language, but we can call it now Filipino.

We have no objection, but please do not state that the national language of the Philippines is Filipino, because that is not the *lingua franca* for the moment.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, before we resumed the session, I asked Commissioner Davide what his proposed amendment is, just to confirm what we believed we heard from him when we had an agreement in the last caucus. He said that in his formulation, the national language of the Philippines is Filipino, based on existing Philippine and other languages. I do not understand why he is vehemently against the committee formulation, Madam President.

MR. DAVIDE. The Gentleman should better tell the Commission what we have agreed upon in the caucus. We did not want the other portions. We are willing to concede to that if the last two sentences will have to be deleted because the committee now mandates that the language of instruction, the medium of communication, shall be in Filipino.

MR. VILLACORTA. I do not want to put any Commissioner on the spot. But lest we be accused, and indeed we are being accused of being deceptive, is it not correct that just a while ago in the presence of Commissioner Monsod and others, the Gentleman said that his proposed formulation is that the national language of the Philippines is Filipino?

MR. DAVIDE. Although that is true, we wanted the deletion of the remaining portion. I ask that the Commissioner complete his statement. It seems he is charging me now of being deceptive.

MR. VILLACORTA. No, I am not charging the Gentleman of being deceptive. I am just saying that our formulation is the same as his.

MR. DAVIDE. It is not. It is not the same. Please read entirely what my proposal to the committee was.

SUSPENSION OF SESSION

MR. VILLACORTA. Madam President, may I request a two-minute suspension to cool our heads.

THE PRESIDENT. The session is suspended.

It was 6:19 p.m.

RESUMPTION OF SESSION

At 6:34 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. The committee, after consultation with some people who wish to propose amendments, has reached a consensus on at least two instances. We will request Commissioner Davide to read those two sentences.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. The first two sentences on Section 1 will read as follows: "The national language of the Philippines is Filipino, BASED ON THE EXISTING Philippine and other languages. CONGRESS SHALL TAKE STEPS to further develop AND enrich it ON SUCH BASIS AND FOR THAT PURPOSE SHALL ESTABLISH A COMMISSION ON NATIONAL LANGUAGE."

The phrase "THE EXISTING Philippine and other languages" refers to the existing regional and native languages and other foreign languages, the words of which may be assimilated into the Filipino common national language.

THE PRESIDENT. Do we understand that Section 1 will be composed now of these two sentences?

MR. DAVIDE. The first sentence will actually be substituted by two sentences, Madam President.

THE PRESIDENT. I see.

MR. DAVIDE. It will not yet affect the other three sentences. So the first two sentences will be read again as follows: "The national language of the Philippines is Filipino, BASED ON THE EXISTING Philippine and other languages. CONGRESS SHALL TAKE STEPS to further develop AND enrich it ON SUCH BASIS AND FOR THAT PURPOSE SHALL ESTABLISH A COMMISSION ON NATIONAL LANGUAGE."

THE PRESIDENT. And is this accepted by the committee?

REV. RIGOS. Madam President, these two sentences are acceptable to the committee but it does not mean that these are the only sentences we would like to put in Section 1. The committee reserves the right to put additional sentences.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I am sorry that this formulation is causing serious misgivings both to me and to some other Members of the Commission with whom I have just conferred. The formulation of the sentence allows for future interpretations that may not be in accordance with the expectations of both the committee and the

Commission. It defines Filipino as a language based on the existing Philippine and other languages. I think it loses sight of the fact, as we said before in the debate and in the interpellation period, that there has been evolving since the beginning of this century a national language that was finally adopted through the 1935 Constitution and which was formally proclaimed in 1940. It actually disregards, if we read the text very closely, this evolution of a national language which, until we met today, bears the name "Pilipino" with a capital P, and which is based on one of the existing languages as determined in the 1935 Constitution.

Today, we say that the language is "Filipino" which is based on Philippine and other languages. And, therefore, this formulation from the standpoint of some of us is far from satisfactory. I wonder whether the Chair wishes a rather prolonged deliberation on this point tonight or it might consider giving the Commission the opportunity to look into this very vital matter more closely so that by tomorrow, we can be in a position to compose our differences.

THE PRESIDENT. I would just like to be clarified, just for my own personal satisfaction. What is actually the difference between the first sentence as stated by Commissioner Davide and the first sentence of the committee report? It says: "The national language of the Philippines is Filipino, BASED ON THE EXISTING Philippine and other languages."

MR. DAVIDE. Madam President, the difference is rather big for the reason that we really fear that what is to be known as "Filipino" may only be based on one language, one Philippine native language.

We contemplate, as claimed by the Filipinologists or those who claim that there is such a Filipino language, that the same is actually the *lingua franca* understood by the Filipinos. This means it is a language that has assimilated words from the other native or regional dialects. So, it is common. We maintain that that is based on Philippine languages and other languages, like Spanish, as in the proposal of Professor Constantino which was submitted here and where we have several Spanish words incorporated in it. But it should be further developed and enriched on that particular basis. So, there is no danger of a possible misapprehension, misunderstanding or a misconstruction.

MR. OPLE. Madam President, may I insist that as now formulated, this opening sentence disregards the gains that have clearly been accumulated and amassed in the development of a common bond of unity through a national language for the Filipino people since the turn of the century.

MR. DAVIDE. It will not disregard. May I state for the record that it will not disregard.

MR. OPLE. It will, because it reopens the whole question of the national language on the basis of what some people have called proportionate contributions—a language which is not recognizable now; a language which I suppose Commissioner Davide imagines will exist in the future after a Language Commission has fully developed such a language, based not on historical gains but on a new amalgam of a language whose shape and character right now we are unable to recognize. And, Madam President, that means a lot of difference and, therefore, as now amended, I submit that the sentence is not satisfactory.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. The committee agrees with Commissioner Ople that we sleep over this tonight and talk about this tomorrow. In effect, we are moving that we adjourn.

MR. OPLE. The Floor Leader, of course, has the privilege of making the motion.

THE PRESIDENT. What does the Floor Leader say?

ADJOURNMENT OF SESSION

MR. RAMA. Madam President, I move that we adjourn until tomorrow at nine-thirty in the morning.

MR. OPLE. Thank you very much.

THE PRESIDENT. The session is adjourned until tomorrow at nine-thirty in the morning. I request everybody to be punctual so we can start at nine-thirty.

It was 6:43 p.m.

R.C.C. NO. 79

Wednesday, September 10, 1986

OPENING OF SESSION

At 9:52 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Napoleon G. Rama.

Everybody remained standing for the Prayer.

PRAYER

MR. RAMA. Lord Almighty, You are the first Lawmaker Who fashioned the fundamental laws for nature, which nature may not disobey, and for man – an insurgent atom could touch off a doomsday disaster and which, under Your scheme, only man with his gift of free will may accept or not accept at his own risk – touch us with a spark of Your wisdom in the making of laws so that we may shape the fundamental law of our land, true to the aspirations of the people and the common good and acceptable to them.

You wanted remembered and celebrated and acknowledged by all as special the event of Your decreeing the Ten Commandments – as a milestone in the history of mankind. It was not without a dash of drama. You sent Your servant Moses to Mt. Sinai before You handed him, amid thunder and lightning, the commandments inscribed in tablets of stone. Moses descended godlike from the summit, exploding in anger at an ungrateful and idolatrous people, smashing the tablets into small pieces – a scene the world will not likely forget. In a few weeks, Lord, we, too, will deliver the constitutional commandments to the people.

To Moses who led Your people out of the land of tyranny to the edge of the land of milk and honey, You gave the gift of leadership, wisdom, courage and anger. We need all of these gifts, Lord, and a little more for our mission is wider, our responsibility greater, than that of Moses, as lawgiver.

Moses came down the mountain to decree upon the people the laws he did not write. Your Constitutional Commissioners will come down from the Batasang Pambansa to render upon our people the fundamental law that we ourselves have written.

This we ask through Christ, Your Son. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present*
Azcuna	Present*
Bacani	Present*
Bengzon	Present
Bennagen	Present
Bernas	Present*
Rosario Braid	Present
Calderon	Present*
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present*
Gascon	Present*
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present*
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present*
Reyes de los	Present*
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present
Suarez	Present
Sumulong	Present
Tadeo	Present
Tan	Present
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 30 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. RAMA. Madam President.

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*Appeared after the roll call

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. RAMA. Madam President, I move that we approve the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Ma. Felicidad Q. Lagarde, submitting Resolution Nos. 24 & 25 of the Senior Citizens Association, Tacloban City Chapter, P. Paterno St., Tacloban City, seeking, respectively, inclusion in the Constitution of a provision on the right of the elderly poor and aging persons to enjoy their right to social and material relief, free medical services, old age financial grants and other related terminal services; and a provision on the right of the potential elderly persons with knowledge, skills, experience and expertise, as reservoir of human resource, for involvement in cultural enrichment, social development, instead of being alienated, deprived and downgraded.

(Communication No. 800 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Maimpok N. Ongchangco, 17 Osmeña Industrial Valley Subdivision, Marikina, Metro Manila, expressing doubts whether the new Constitution will be ratified because of the inclusion of controversial and divisive issues.

(Communication No. 801 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication signed by twelve physicians from the U.S.T. Hospital, expressing objection against the retention of the U.S. military bases in the Philippines.

(Communication No. 802 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Telegram from BAYAB PCCC Kamkem ACT Ozamiz, requesting for redeliberation of a provision on national economy and urging the Constitutional Commission to adopt a nationalist constitution to protect Filipino business industries against foreign competition.

(Communication No. 803 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from Rev. Homer A. Clavecilla of Union Theological Seminary, Palapala, Dasmariñas, Cavite, opposing vigorously the proposed compulsory religious instruction in public schools, supporting instead the retention of the old constitutional provision on optional religious instruction.

(Communication No. 804 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Ms. Amherstia Paez of the Institute of Public Health Student Council, University of the Philippines Manila, Ermita, Manila, containing specific recommendations for the proposed Article on Education, Science, Technology, Sports, Arts and Culture.

(Communication No. 805 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mrs. Ramona Rodriguez Tan, Associate Professor, University of the Philippines, and Mrs. Pura Tianco Badoy, President, PWU College of Education Alumnae Association, expressing support for a provision providing free and compulsory education up to the secondary level.

(Communication No. 806 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Enrique L. Victoriano of 4427 Int. Old Sta. Mesa, Manila, submitting proposals which are believed to provide sufficient interpolation at the discussions to at least pave the way for modifications of the educational system by legislation.

(Communication No. 807 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Provincial Fiscal of Bohol, Enrique B. Inting, Tagbilaran City, containing comments as well as recommendations on Section 3 of the proposed Article on the Bill of Rights.

(Communication No. 808 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from the Philippine Medical Association of Metropolitan Washington, D.C., Inc., 10210 Norton Road, Potomac, Maryland, U.S.A., signed by its President, Dr. Cresenciano C. Lopez and fifteen (15) other officers and members, endorsing the resolution adopted by the Association of Philippine Physicians in America, Inc., seeking inclusion in the Constitution of a provision that would make a natural-born citizen of the Philippines who has lost his/her Philippine citizenship a transferee of private lands.

(Communication No. 809 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communications urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, each from the following:

1) Rev. Ruth Barnard
Christian Rendezvous, San Jose Street
Dumaguete City

(Communication No. 810 – Constitutional Commission of 1986)

2) Rev. Jose M. Artajo and one hundred one other
signatories, Faith Tabernacle (Charismatic Center)
Bayawan, Negros Oriental

(Communication No. 811 – Constitutional Commission of 1986)

3) Rev. Hermes Guiritan and thirty-six other
signatories, Foursquare Gospel Church,
Tiguib, Ayungon, Negros Oriental

(Communication No. 812 – Constitutional Commission of 1986)

4) Pastor Francis P. Anthony
c/o Kabulusan Baptist Church
Kabulusan, Pakil, Laguna

(Communication No. 813 – Constitutional Commission of 1986)

5) Rev. Dioscoro P. Sales
Faith Island Mission, Inc.
P.O. Box 2, Bais City
Negros Oriental

(Communication No. 814 – Constitutional Commission of 1986)

6) Mr. Bonifacio Portugal, Jr. and three other
signatories, Corpus Christi Community
Foundation, Inc., P.O. Box AC-65,
Quezon City

(Communication No. 815 – Constitutional Commission of 1986)

7) Rev. Ernie P. Lao
Davao Baptist Church
Araullo Street, Tionko Subdivision
Davao City

(Communication No. 816 – Constitutional Commission of 1986)

8) Rev. Gideon B. Caselan and two hundred fifty-four
signatories, Lagao Alliance Church, Lagao,
General Santos City

(Communication No. 817 – Constitutional Commission of 1986)

9) Mr. Efraim M. Tendero and two hundred forty-
seven other signatories, Kamuning Bible Christian
Fellowship, No. 4 11th Jamboree, Kamuning,
Quezon City

(Communication No. 818 – Constitutional Commission of 1986)

10) Ms. Antonia T. Corda and five hundred fifty-six
other signatories, Philippine General Council of
the Assemblies of God, P.O. Box 49, Valenzuela,
Metro Manila

(Communication No. 819 – Constitutional Commission of 1986)

11) Mr. Edgar delos Santos and twenty-seven other
signatories, First Kalinga Alliance Church,
Bulanao, Tabuk, Kalinga-Apayao

(Communication No. 820 – Constitutional Commission of 1986)

12) Mr. William Su, Baptist Conference Church of
Bacolod, P.O. Box 494, Bacolod City

(Communication No. 821 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letters seeking to incorporate in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

1) Mr. Eugenio S. Rosales and sixty-seven other
signatories of Metro Cebu

(Communication No. 822 – Constitutional Commission of 1986)

2) Ms. Amparo Pamela Fabe
University of the Philippines
Diliman, Quezon City

(Communication No. 823 –Constitutional Commission of 1986)

3) One thousand two hundred forty-two concerned citizens of Bacolod, Negros Occidental

(Communication No. 824 – Constitutional Commission of 1986)

4) Ms. Judy Razal and seventy other signatories of Legaspi City

(Communication No. 825 – Constitutional Commission of 1986)

5) Mr. Ricardo M. Ravacio and one thousand forty-eight other signatories of Oroquieta City

(Communication No. 826 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Arts and Culture)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA. Madam President, I move that we take up this morning the continuation of the consideration on Second Reading of the Article on Education, Science, Technology, Arts and Culture.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Human Resources are requested to please occupy the front table in order that we may continue the consideration of the remaining sections of the proposed Article on Education.

We were discussing yesterday the section on National Language. Is the chairman, Commissioner Villacorta, ready to make any report to the body?

MR. VILLACORTA. Madam President, before we entertain more amendments, may I say a few words on behalf of the committee in defense of the committee report proposing Filipino as the national language and as the medium of official communication and instruction, because certain questions were raised by fellow Commissioners last night.

MR. RAMA. Madam President, there is an anterior business. This is the motion for reconsideration of Commissioner Foz, and he would like to present it now. This was with reservation.

MR. FOZ. Madam President, this is in connection with the reservation we made yesterday.

THE PRESIDENT. Which section is this, please?

MR. FOZ. This concerns the provision on Sports in connection with the promotion of physical education and encouragement of sports. We have an amendment which we would like to offer. We have already approved this provision.

THE PRESIDENT. Can we first read what we had approved? This is for subsection (d) of Section 2.

MR. FOZ. That is correct, Madam President.

THE PRESIDENT. Does the Commissioner have the approved section?

MR. FOZ. May we ask the committee to read the approved provision before we submit our proposed amendment.

MR. VILLACORTA. May we be given one minute because we were not prepared for this, so we did not have the approved provision.

THE PRESIDENT. It is all right.

MR. FOZ. Anyway, I will read the provision as approved yesterday, Madam President.

It says here, and I quote:

> The State shall promote physical education and encourage sports programs to foster the values of self-discipline, teamwork and excellence, and for the total development of a healthy and alert citizenry.

That is the provision as approved yesterday, and which I propose to amend by insertion, if I may be allowed to proceed now.

THE PRESIDENT. The Commissioner may proceed.

MR. FOZ. I propose to amend the same provision. I would rather read the provision as would be amended by my proposal. So, I propose that the provision shall read in the following manner: "The State shall promote physical education and encourage sports programs, LEAGUE COMPETITIONS AND AMATEUR SPORTS, INCLUDING TRAINING FOR THE INTERNATIONAL AND OLYMPIC COMPETITIONS, to foster self-discipline, teamwork and excellence for the development of a healthy and alert citizenry." That is how the provision will read if my amendment would be approved by the committee. In other words, our amendment will consist of just inserting a few phrases in the very same provision.

MR. VILLACORTA. The committee suggests that we substitute the word "INTERNATIONAL" for "OLYMPIC." Would it be acceptable to the Commissioner?

MR. FOZ. Substitute the word "INTERNATIONAL" for the word "OLYMPIC"? It is already there. It says here: "TRAINING FOR THE INTERNATIONAL AND OLYMPIC COMPETITIONS."

MR. VILLACORTA. So, we are for the deletion of the words "AND OLYMPIC." Would it be acceptable to the Commissioner?

MR. FOZ. If the concept of Olympics would be part of the phrase "INTERNATIONAL COMPETITIONS," then I will agree. I accept the suggestion.

MR. VILLACORTA. It will be part of the sense of the word "INTERNATIONAL."

MR. FOZ. I accept that suggestion.

MR. VILLACORTA. In that case, Madam President, the committee accepts the amendment of Commissioner Foz.

THE PRESIDENT. Before we take a vote, will the Commissioner please repeat the amendment?

MR. FOZ. So the provisions will now read: "The State shall promote physical education and encourage sports programs, LEAGUE COMPETITIONS AND AMATEUR SPORTS, INCLUDING TRAINING FOR THE INTERNATIONAL COMPETITIONS, to foster self-discipline, teamwork and excellence for the development of a healthy and alert citizenry." That is the provision.

VOTING

THE PRESIDENT. As many as are in favor of this proposed amendment which has been accepted by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against the amendment, please raise their hand. *(Few Members raised their hand.)*

The results show 30 votes in favor, 1 against and no abstention; the Foz amendment is approved.

Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President.

I was a little late to stand up before the Chair asked for a voting on the amendment of Commissioner Foz. But I would like to offer an amendment to the amendment, if Commissioner Foz would agree.

THE PRESIDENT. We have already approved the amendment; the Commissioner can still offer another amendment.

MR. DE CASTRO. I propose to add the following paragraphs after the approved amendment of Commissioner Foz which will read as follows: "ALL SCHOOLS, COLLEGES AND UNIVERSITIES, PUBLIC AND PRIVATE, SHALL UNDERTAKE REGULAR SPORTS ACTIVITIES, ATHLETIC COMPETITIONS IN ORGANIZED LEAGUES FROM BARANGAY, MUNICIPAL, PROVINCIAL, REGIONAL, NATIONAL AND INTERNATIONAL SPORTS PROGRAMS IN COOPERATION WITH ATHLETIC CLUBS AND OTHER SECTORS.

"THE PROMOTION OF AMATEUR SPORTS AS DISTINGUISHED FROM PROFESSIONAL PLAYERS SHALL BE PROVIDED BY LAW INCLUDING THE TRAINING OF NATIONAL ATHLETES FOR OLYMPIC GAMES."

SUSPENSION OF SESSION

MR. DE CASTRO. Madam President, may I ask for a suspension of the session so I can introduce these amendments to the committee?

THE PRESIDENT. The session is suspended.

MR. DE CASTRO. Thank you.

It was 10:16 a.m.

RESUMPTION OF SESSION

At 10:20 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

May we know the parliamentary situation from the Floor Leader?

MR. RAMA. The parliamentary situation is that Commissioner Foz is asking for a motion for reconsideration with respect to the proposal of Commissioner de Castro.

THE PRESIDENT. We have just approved the Foz amendment. Is this another amendment?

MR. RAMA. This is another amendment for which Commissioner Foz is asking for a reconsideration.

MR. FOZ. Madam President, we would like to ask for a reconsideration of our action yesterday on the deletion of the second paragraph of the same provision. I refer to the provision which reads as follows:

> All schools, colleges and universities, public and private, shall undertake regular sports activities, athletic competitions in organized leagues, from barangay, municipal, provincial to regional to national sports programs in cooperation with other sectors.

That is the provision which was deleted in yesterday's proceedings. I would like to ask the body now to reconsider this deletion so that it may be reinstated as part of the provision on Sports. This will serve as a second paragraph to the first paragraph that we have already approved as amended.

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. May I offer an amendment to the amendment of Commissioner Foz by deleting the phrase "from barangay, municipal, provincial and national level" and substituting it with the words "THROUGHOUT THE COUNTRY." Also we just put into the record that the meaning of that phrase "THROUGHOUT THE COUNTRY" shall include the promotion of activities and athletic competitions in organized leagues in barangay, municipal, provincial and national level. So, we will not have a long amendment.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. We have not yet voted on the motion for reconsideration and it is premature to propose another amendment.

VOTING

THE PRESIDENT. We will have to vote, as step one, on whether or not we shall reconsider this second motion of Commissioner Foz to reconsider the deletion of the second paragraph. Then, afterwards, if that motion is approved, this particular section will be open and we can proceed to determine what will be the phraseology.

So, let us vote on that motion.

As many as are in favor of reconsidering the action taken yesterday, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 25 votes in favor, 1 against and 2 abstentions; the motion for reconsideration is approved.

MR. OPLE. Madam President, I voted for the motion for reconsideration, but I hope this will not establish precedence in the future when we will be asked to nullify our action of the previous day. This is entirely within the Rules, but I am referring to the stability of voting that is conducted within the Commission.

Thank you, Madam President.

THE PRESIDENT. So what is the Commissioner's proposed amendment now?

MR. FOZ. I propose to reinstate the second paragraph which was deleted yesterday with the amendment of Commissioner de los Reyes incorporated therein which will read as follows: "All schools, colleges and universities, public and private, shall undertake regular sports activities THROUGHOUT THE COUNTRY in cooperation with ATHLETIC CLUBS AND other sectors."

MR. GASCON. Would the Commissioner be amenable to the deletion of the words, "colleges and universities, public and private," and instead we just say "ALL SCHOOLS" which means colleges, universities and high schools?

MR. FOZ. What about "ALL EDUCATIONAL INSTITUTIONS"?

MR. GASCON. Yes.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Would the Commissioner accept an amendment to delete the words "in organized leagues" because it is understood when we undertake competitions, these are organized?

MR. FOZ. That is not a part of our present amendment.

MR. GUINGONA. Has that phrase "in organized leagues" been removed?

MR. FOZ. It is already a part of the first sentence of the first amended paragraph.

MR. GUINGONA. So the Commissioner's proposed amendment will now read: ". . . shall undertake regular sports activities and athletic competitions THROUGHOUT THE COUNTRY. . ." if he accepts the de los Reyes amendment?

MR. FOZ. Yes, it only says: "ALL EDUCATIONAL INSTITUTIONS shall undertake regular sports activities THROUGHOUT THE COUNTRY in cooperation with ATHLETIC CLUBS and other sectors." It is as simple as that.

MR. RAMA. Madam President, there are no registered speakers on this accepted amendment by the committee, so I ask that we take a vote.

MR. GUINGONA. Madam President, for the record, may we just request Commissioner Foz to elaborate on the phrase "ATHLETIC CLUBS and other sectors"?

MR. FOZ. To my mind the groups involved in the phrase "other sectors" would refer to some other private or public organizations, like for instance, the rotary clubs, the Jaycees, even the local government units which may be minded to support sports competitions in their own localities.

MR. GUINGONA. May we ask the Commissioner to read again the proposed amendment?

MR. FOZ. It reads: "ALL EDUCATIONAL INSTITUTIONS shall undertake regular sports activities THROUGHOUT THE COUNTRY in cooperation with ATHLETIC CLUBS and other sectors."

MR. GUINGONA. Chairman Villacorta says that we accept the amendment. Hence, the committee accepts Commissioner Foz's proposed amendment.

VOTING

THE PRESIDENT. As many as are in favor of this amendment which has been accepted by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 28 votes in favor, none against and 1 abstention; the amendment is approved.

MR. FOZ. Madam President, in connection with these two amendments, I would like to state that these two provisions have been cosponsored by Commissioners Suarez, Nieva, Monsod, de Castro and Padilla.

MR. VILLACORTA. Madam President, just for the record, we would like to mention also that the amendments that were approved were based on the committee proposal.

MR. RAMA. Madam President, I move that we proceed to consider the amendments to the provisions on Language. The first registered speaker is Commissioner Tadeo.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Ginang Pangulo, mga Kagalang-galang kong Kasama sa Constitutional Commission, sinikap kong ilagay ang aking sarili bilang pinakahuling tagapagsalita tungkol sa language dahil ako ang nagsasalita ng Pilipino sa kapulungang ito at malalagay ako sa alanganin sapagkat isa pa akong taga-Bulacan. Iginigiit ko ang wikang ito sapagkat ako ay Bulakeño at gusto kong mangusap dito bilang isang Pilipino, bilang anak ng aking bayan, bilang anak ng daigdig.

Uumpisahan ko ito sa sinabi ni Jose Rizal: "Ang hindi magmahal sa sariling wika ay higit pa sa hayop at malansang isda." Bago namatay si Jose Rizal noong December 30, 1896, 90 taon na mula ngayon, ipinahayag niya ito sa *El Filibusterismo.* He foresaw the tragic effects of a colonial education. Hence, in his role as Simon he said:

> You ask for equal rights, the Hispanization of your customs, and you don't see that what you are begging for is suicide, the destruction of your nationality, the annihilation of your fatherland, the consecration of tyranny! What will you be in the future? A people without character, a nation without liberty – everything you have will be borrowed, even your defects! What are you going to do with Castilian, the few of you who will speak it? Kill off your own originality, subordinate your thoughts to other brains, and instead of freeing yourselves, make yourselves slaves indeed! Nine-tenths of those of you who pretend to be enlightened are renegades to your country! He among you who talks that language neglects his own.

What Rizal said about Spanish has been proven to be equally true for English.

Ang aking pangalawang katuwiran sa pagsuporta sa wikang Pilipino ay batay naman sa ginawang pagsasaliksik at pag-aaral ng Muslim scholar, si Najib Saleeby. In 1924, the eminent scholar, Najib Saleeby, wrote something on the language of education in the Philippines. He deplored the attempt to impose English as the medium of instruction. Saleeby, who was an expert on the Malayo-Polynesian language, pointed out that Tagalog, Visayan, Ilocano and other Philippine dialects belong to the same linguistic tree. He said:

> The relation the Tagalog holds to the Bisaya or to the Sulu is very much like or closer than that of the Spanish to the Italian. An educated Tagalog from Batangas and an educated Visayan from Cebu can learn to understand each other in a short space of time and without much effort. A Cebuano student living in Manila can acquire practical use and good understanding of Tagalog in less than three months. The relation between Tagalog and Malay is very much the same as that of Spanish and French.

This was said 42 years ago when Tagalog movies, periodicals and radio programs had not yet attained the popularity that they enjoy today all over the country.

Ang pangatlo kong batayan ay ang isinulat ni Renato Constantino na pinamagatang *"The Miseducation of the Filipino People,"* which says:

> The first and perhaps the master stroke in the plan to use education as an instrument of colonial policy was the decision to use English as the medium of instruction. English became the wedge that separated the Filipinos from their past, and later was to separate educated Filipinos from the masses of their countrymen. English introduced the Filipinos to a strange new world. With American textbooks, Filipinos started learning not only a new language, but also a new way of life – alien to the tradition and yet a carica-

> ture of their model. This was the beginning of their education, at the same time, it was the beginning of their mis-education for they learned no longer as Filipinos, but as colonials.
>
> English has created a barrier between the monopolies of power and the people. English has become a status symbol, while the native tongues are looked down upon. English has given rise to a divisive society of fairly educated men and the masses who are easily swayed by them.
>
> *Learning – Impediments to Thought.* A foreign language is an impediment to instruction. Instead of learning directly through the native tongue, a child has first to master a foreign tongue – memorize its vocabulary, get accustomed to its sound, intonations, accent – just to discard the language later when he is out of school. This does not mean that foreign languages should not be taught. Foreign languages should be taught and can be taught more easily after one has mastered his own tongue. Language is a tool of the thinking process. Through language, thought develops and the development of thought leads to the further development of language. But when a language becomes a barrier to thought, the thinking process is impeded or retarded, and we have the resultant cultural stagnation. Creative thinking, analytical thinking, abstract thinking are not fostered because the foreign language makes a student prone to memorization.

Gusto kong ibahagi sa inyo ang karanasan naman ng paaralan na sinabi kahapon ni Commissioner Davide na ang nagpasimula lamang nito ay U.P. Tanggapin natin ang katotohanang ang Unibersidad ng Pilipinas ay isa nang institusyon sa pagtuturo. At ako bilang agriculturist o magsasaka ay hindi makapagkakailang sinasabi ng mga taga-ibang bansa na kaya sila maunlad ay sapagkat nagtapos sila sa University of the Philippines sa Los Baños. Kaya hindi natin pwedeng iwasan ang pagiging isang institusyon ng Unibersidad ng Pilipinas.

I just want to read a letter we have received, entitled: "Barrier to Effective Teaching of Science and Math Identified.

> The effective teaching of Science and Mathematics in the country hinges on the recognition of at least three major factors according to a researcher from the Institute of Science and Mathematics Education Development. These factors, said Dr. Jasmin Acuña, are the bilingual educational policy, the learning capabilities of Filipino children and the importance of nonlinguistic communication.
>
> Dr. Acuña implied these factors are identified basically with communication processes. The bilingual education policy, for example, has to be clarified from the standpoint of science education. Dr. Acuña said that the use of English for science instruction may preclude the development of thinking processes that could be most useful for our population. An earlier survey done by Dr. Acuña showed that not only students, but teachers as well, find teaching physical sciences in English difficult. As a result, the barrier to effective communication is doubled.

Ang pinakamalaking balakid ng mga kabataang Pilipino sa pagkatuto ng mga araling agham ay dahil sa kailangang pag-aralan niya ito sa wikang dayuhan. Walang malayang bansa ang gumagawa nito. Sa pag-aaral ng agham, kailangang sanay muna sa wikang dayuhan ang isang mag-aaral. Ngunit dahil sa mga likas na dahilang marami sa kanila ang hindi natuto ng English, ang tunay na nangyayari ay pinag-aaralan nila ang agham samantalang nagsasanay pa lamang sila sa English. Nakapagtataka ba kung paunti nang paunti ang nagkakahilig magpakadalubhasa at magturo ng mga araling agham? Idagdag pa natin ang pangkalahatang napakababang pagtingin sa mga guro natin. Nakapagtataka ba na pasama nang pasama ang kalagayan ng agham at teknolohiya sa ating bansa? Isinulat ni President Eduardo Angara: ". . . para ang kulturang agham ay malayo sa pag-uugat sa kaluluwa ng ating bansa." Kung pag-aaralan ang ating pambansang kilos mapapansin na bilanggo pa rin tayo ng mga karaniwang pamahiin at mga maling haka-haka. Sa aking palagay, magkakaroon ng kalutasan ang maraming suliranin natin kung gagamitin ang Pilipino sa pagtuturo, lalung-lalo na sa pagtuturo ng agham sapagkat ang pagkatuto ng mga araling agham ang pinakamahalagang bahagi ng mga araling dapat matutuhan ng lahat ng kabataan.

Narito naman ang aking kongkretong karanasan bilang isang pambansang lider ng mga magbubukid. Ang nalalaman kong wika ay Pilipino na sinuso ko sa aking ina. Nagpunta ako ng Luzon, Bisaya at Mindanao. Nakarating ako sa Kinuskusan, Davao del Sur, sa Talomo at sa Kidapawan. Nakarating din ako sa Surigao, Agusan, Iloilo, Cebu, Samar, Daet, Sorsogon, Kalinga-Apayao, Isabela at sa Cagayan. Ang aking ginagamit na wika ay Pilipino. Gayon din naman sa lahat ng pagpunta ko rito, hindi lamang ako minsang pinalakpakan, bagkus maraming beses. Masasabi nating hindi sila puwedeng pumalakpak nang hindi nila nauunawaan ang aking sinasabi. Sa lahat ng kumbensiyon ng regional chapter ng Kilusang Magbubukid ng Pilipinas, Pilipino ang aking ginagamit at nauunawaan nila ako. Nagkaroon kami ng kumbensiyon noong July 24, 25, 26 and 27, kung saan mula sa kinatawan ng Luzon, Bisaya at Mindanao ay ginamit namin ang wikang Pilipino at nagkaunawaan kami. Sa lahat ng regional council na pagpupulong namin, ang ginagamit namin ay ang wikang Pilipino. Kapag nagtagpo ang mga Ilokano, Bicolano at Cebuano sa pagpupulong na ito ang ginagamit na wika ay ang Pilipino.

Naiintindihan ko ang sinabi ni Commissioner Davide na sa kaniyang pakikipag-usap ang ginagamit niyang salita ay wikang English. Tinatanggap ko iyan. Sa sampu, maaaring nangyayari ang isa o 10 porsiyento, pero sinasabi ngang "The truth is the whole." Ang kabuuan ay ang katotohanan. Tanggapin nating ang wika ng masa, mga magsasaka, manggagawa, urban poor at mga kabataan ay ang wikang Pilipino. Ang Pilipino ay hindi lamang wika ng masa. Ito ay wika rin ng middle class at ng upper class. Diyan makikita nating ito ang ginagamit na salita. Hindi na dapat pagtalunan pa ang sinasabi nating pambansang *lingua franca.* Tanggapin natin ang sinabi ni Jose Rizal 90 taon na ang nakaraan at ito ang isinasaad: "Ang hindi magmahal sa sariling wika ay higit pa sa hayop at malansang isda." Simula noon sa 90 years na iyan, ang wikang Pilipino ay umunlad na. Umunlad na ito sapagkat naimpluwensiyahan nito ang kanyang kapaligiran. Nagkaroon na ito ng "contact" sa iba't ibang wika. Sinasabing ang wikang Pilipino ay maka-masa, maka-bansa, siyentipiko, hindi elitista at mapagbuklod. Kaya para sa akin, itong nakasaad dito sa committee amendment ay totoong napakahalaga. Kung ako lamang ang tatanungin ninyo, itinatanong ko sa saking sarili: Kung ang bumubuo kaya ng kapulungang ito ay pawang mga magsasaka, mga manggagawa, mga urban poor at mga kabataan at kung ang pag-uusapan ay wikang pambansang nakalagay dito sa kanilang proposed amendment, pagbubutihin kaya nila? Hindi ito magiging madugong usapin at siguradong ang pangunahing wikang pambansa ay Pilipino sapagkat ito ang wika ng masa. Pero ang nakikita ko lamang na suliranin kapag ito ay pinag-uusapan na at nakararami ang naghaharing uri, nagdadaan sa butas ng karayom ang wikang Pilipino. Ngunit gusto ko lamang banggitin sa inyo kung ano ang pamamaraan ni Kristo sa wika. Ito ang Kanyang pamamaraan:

> Jesus Christ took pains first to learn how to speak Aramaic, the lowly dialect of the poor and the backward people whom he came to live with and to teach. He adopted their idioms and their accent.

Ang ating pinakamahalagang pinag-uusapan ngayon sa seksiyon sa Language ay ito: Kailangang magkaroon na tayo ng pangunahing wika at pangalawa lamang ang wikang English kaya tama ang nakalagay dito sa kanilang panukalang provision on Language. Sinasabi nating ang wika ang kaluluwa ng bansa. Kung ang wika ang kaluluwa ng isang bansa at English ang ating gagamitin, ano ang kaluluwa ng bansang Pilipinas?

Mga kasama, siyamnapung taon na ang nakaraan, para umunlad ang wikang Pilipino kailangang gamitin natin itong medium of communication sa three branches of government: sa judiciary, sa legislative at sa executive. Gamitin natin itong medium of instruction. The Pilipino language is in the people and in their experiences. Kaya ako ay naninikluhod sa inyo. Ang wikang ito ay hindi ko bibitiwan, pero dahil ang pinag-uusapan ngayon ay ang wikang Pilipino, bibitiwan ko na. Ano ang sinasabi ng masa? "Kaming masa, kailan man ay hindi ninyo pakikinggan pero kapag may hawak na kaming baril ay saka pa lang ninyo kami pakikinggan."

THE PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. Madam President, can I add just a few peaceful words to the words of my provincemate? I will not exacerbate the situation.

Naaalala ko na maski na sa Banal na Kasulatan ay mayroong nakatitik diyan na noong panahon ang mga tao ay nakalimutan na ang Panginoong Diyos at itinayo nila ang Tore ng Babel. Nagkasundo ang mga taong iyon na kalimutan na ang Diyos sapagkat sila ay nagkakaisaisa na at iisa ang wika nilang ginagamit. Kaya nang mapansin ng Panginoong Diyos na gusto na Siyang lagpasan pa noong mga gumagawa ng toreng napakataas, ang ginawa ng Panginoon ay binigyan sila ng iba't ibang wika upang matapos ang kanilang paglaban sa Panginoong Diyos. Nang hindi na sila magkaunawaan sapagkat iba't iba na ang kanilang wika, hindi na natuloy ang kanilang paglaban sa Panginoong Diyos.

Kaya raw hindi tayo umuunlad ay sapagkat ang mga Pilipino ay may iba't ibang wika sa pananalangin sa Panginoong Diyos. May nananalangin sa English at sa iba pang wika. Kaya kung dumarating sa Panginoon ang panalangin natin, ang akala ng Panginoong Diyos ay mga Amerikano ang nananalangin. Kaya kapag naghuhulog ng biyaya ang Panginoong Diyos, tumutuloy sa Amerika ang biyaya. Ang yumayaman tuloy ay ang Amerika; ang naghihirap ay ang Pilipino. *(Laughter)* Kaya kung ako ay magdasal dito sa kapulungang ito ay sa Pilipino upang makarating sa Panginoong Diyos at nang malaman Niya na ang mga Pilipino ang nananalangin at humihingi ng awa at biyaya para kung magbigay Siya ng biyaya, tiyak na sa Pilipinas ang lagpak. Kaya kung puro English ang ating panalangin, sa Amerika ito mapupunta, Madam President. Kaya ako ay nagpapasalamat. Ito ang itinuturing kong pinakamalaking nagawa ng ating Con-Com — na ipahayag sa buong sambayanang Pilipino na mayroon tayong wikang pambansa. Ang wikang iyan ay Pilipino. Naging "F" ang titik "P" sa salitang Pilipino. Itinuturing kong pinakamalaking tagumpay natin ito, Madam President, na kahit tayo ay hindi halal ng bayan, itong ating Komisyong Pansaligang-Batas ang siyang nagpahayag na sa unang pagkakataon ay tiniyak natin na mayroon tayong wikang pambansa.

Naalaala ko, Ginang Pangulo, noong kami ay nasa Kongreso, kami ay halal ng bayan. Nanonood ang mga Amerikano sa galeriya noong kami ay mga Congressmen. Natatandaan ko na tuwing ako ay tatayo at gusto kong ipahayag ang aking damdamin, adhikain at mga pithaya ng mga kapwa ko Pilipino ito ay sinasabi ko sa wikang Pilipino. Hindi tayo ang mga kinatawan ng mga Amerikano. Tuwing magsasalita ako noon gusto kong ginagamit ang wikang sinuso ko sa dibdib ng aking magulang. Sasabihin ng mga kapatid kong mga Kinatawan noon: "We will walk out if you will not stop speaking in the national language or wikang Pilipino." Indeed they walked out. That is how we were divided at that time. Nanonood po noon ang mga Amerikano. Nakikita nila na umaalis ang ibang Kinatawan kapag ang mga halal ng taong bayan na katulad ko ay nagsasalita sa sariling wika.

Kung tayo naman ay nasa international conference, ang lahat ng Kinatawan ng bansang Pilipinas ay pawang English ang ginagamit. Ang akala tuloy ng iba ay nasa ilalim pa tayo ng Amerikano. Minsan, nagsalita si Minister Ople sa ILO sa wikang Pilipino. Nagpalakpakan ang mga tao. Tuwang-tuwa siya noong siya ay bumaba.

Sinabi niya, "Sa wakas, nakikilala na ang bansang Pilipinas na may sariling wikang Pilipino." Ngunit noong kamayan siya, ay may nagsabi sa kanya: "We congratulate you for speaking good Spanish." *(Laughter)* Hindi pala tama ang "impression" ni Commissioner Ople.

Kaya ito pong ating ginagawang panukala ay huwag na nating masyadong tutulan. Pagtibayin na natin kaagad ang panukalang ito at nang magkaroon tayo ng sariling wika sapagkat maraming Pilipino ang nagtuturing na ang wika natin ay may taglay na tamis ng pulot-pukyutan. Kung ang wikang ito ay ginagamit sa pagsungkit ng puso ng isang dilag, ang wikang Pilipino ay may bulong ng pusong lihim na umiibig. Ngunit kung ang wikang Pilipino naman ay ginagamit sa pagtatanggol ng ating karapatan, pagtataguyod ng ating kapakanan, ang wikang Pilipino ay may taglay na talim at kislap ng mga sundang ng ating mga magulang sa paghanap ng katarungan at magandang pag-asa para sa ating bayan.

Salamat po. *(Applause)*

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Maaari po bang tumugon ang komite? Kami ay sumusuporta sa mga sinabi ng aming kasamang sina Commissioners Tadeo at Natividad. Tunay nga na tayo lamang ang bansa sa mundo na parang ikinahihiya ang wikang pambansa. Tayo ay nagdarasal, nag-iisip, nagsusulat, nag-aaral sa isang wikang banyaga. Kasama rito sa aking tugon ang aking paghingi ng paumanhin sa buong Constitutional Commission sa pag-init ng aking ulo kagabi. Ipinahayag ko po ang dahilan sa aking mga Kasama sa Constitutional Commission. Noong tayo ay nagtatalo rito at hindi nagkakasundo dahil sa pagtalakay ng usapin tungkol sa wikang pambansa, ang ating magiting na "Big Brother" na laging sumusubaybay sa atin sa gallery ay napapangiti at napapatawa na parang nililibak ang hindi pagkakaisa ng bansang Pilipinas at iyan ay isang simbulo lamang ng ating kahinaan bilang isang bansa. Tayo ay nagkakaroon ng hidwaan ng pagkakawatak-watak at ang isang dahilan nito ay sapagkat tayo ay hindi pinagbubuklod ng isang wikang pambansa.

Kagabi po, Madam President, ay mayroong mga katanungan ang ating mga Kasama sa Komisyon at ako ay inatasan ng Komite sa Edukasyon na sagutin ang ilang mga katanungan na kailangang linawin upang magkaroon tayo ng maayos at matalinong botohan tungkol sa usapin sa wikang pambansa.

First of all, the committee reiterates its stand that there is a living *lingua franca* which we can call Filipino. According to linguists, I think we should listen to them because not one of us here is a language expert. Filipino is not based on Tagalog or Pilipino alone, but it has incorporated the contributions of other Philippine languages and dialects, as well as Spanish and English. At dahil po rito, ibig kong ipaalam kay Commissioners Tadeo at Natividad na ang kampeon ng Pilipino, with letter "P" na si Direktor Ponciano Pineda, on behalf of the Surian ng Wikang Pambansa, ay nakiisa na rin sa mga advocates ng Filipino with an "F." At ito ay ipinahayag niya sa kanyang sulat dated August 29, 1986 na ngayon ay ipinamahagi sa Constitutional Commission. Ang sabi ni Direktor Pineda ay nakikiisa ang Surian ng Wikang Pambansa at ang mga ibang tagapagtanggol ng Pilipino upang magkaisa ang kilusan para sa pagpapaunlad ng wikang pambansa. Ito ay nangyari noong "National Language Week" na ginanap noong nakaraang buwan sa Unibersidad ng Pilipinas.

Madam President, the committee contends that Filipino is a *lingua franca* that has evolved through the decades – spoken, especially by non-Tagalogs when they speak with their countrymen who are from other regions or language groups.

English remains the favorite language of the elite, whether Tagalog or non-Tagalog for obvious reasons. But we are referring to the masses of our people – the ones we came in contact with in our public hearings. They are the ones who say, "Sain kayo maglakad tapos dini? " instead of the purist saying "Saan kayo magtutungo pagkatapos dito?" But we understand what they mean when they say, "mas guapo giud ang bana ko sa bana mo" or "guapa kuno ang kanyang amiga" o "yawa kawatan pala ang soltero" or "huwag ka man magtapo sa road" or "mayroon pa ngani." These speakers of the *lingua franca* throughout the country make themselves clearly understood because consciously or unconsciously, they use words that most Filipinos can comprehend.

According to the linguist we have consulted, all Philippine languages, without exception, have the same etymological roots, grammar and syntactical structures. It is much easier for any Filipino to learn another Philippine language than to learn English or other foreign languages.

The committee would also like to point out that the resource persons we consulted were not Tagalogs only but mostly non-Tagalogs; namely, Dr. Ernesto Constantino and Dr. Consuelo Paz who are Ilocanos; English Professor Teresita Maceda who is a Cebuana; Dr. Bonifacio Sibayan, an Ilocano; Dr. Andrew Gonzales, a Pampangueño, Professor Jesus Ramos, a Bicolano and Professor Anicia del Corro, a Pampangueña.

As we said, the Surian ng Wikang Pambansa sent us a letter supporting the committee proposal. As we can see from the copy that we have, it was signed by the leadership and staff of the Surian ng Wikang Pambansa who represent all major Philippine language groups.

Madam President, I would also like to mention that our committee is composed of an Ilocano, Commissioner Bennagen; three Ilonggos, Commissioners Treñas, Gascon and Guingona; one Kapampangan, Commissioner Tan; one Maguindanao, Commissioner Uka; a

Cebuana-Tagala, Commissioner Quesada; a Pangasinense, Commissioner Rosario Braid; and two Tagalogs, Commissioner Rigos and this Representation.

What we are stressing here is that consultations with non-Tagalogs have not been wanting in the process of consolidating the committee's proposal on language. We exhort our fellow Commissioners not to go by the premises of prewar times.

We would like to point out that there has been dynamism in language development in our country and several significant changes have taken place. These significant dynamic changes are the ones that we should take into account in our deliberations.

Thank you very much, Madam President.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Madam President.

I would like to support the other Commissioners who have spoken in favor of making Filipino a national language and a medium of instruction. I shall draw my arguments from the provisions that have already been approved in the Constitution and I shall mention only a few but essential provisions. We are saying that the State shall foster nationalism and, therefore, we need to have a national language in the same manner that we need a national flag and some other things that we associate ourselves with in the pursuit of national identity and national unity. We are also saying that the State shall foster creative and critical thinking; broaden scientific and technological knowledge; and develop a self-reliant and independent economy to industrialization and agricultural development. We have also said earlier that we shall have a consultative government and that people's organization shall be protected in terms of their right to participate more fully in the democratic processes. In all of these, we need to have a unifying tool for communication which is, of course, Filipino, defined by a group of language scholars and organizations as an expanding version of Pilipino. There is an increasing body of literature which argues very well for the use of Filipino and there are studies made by the Institute of Science and Mathematics Education Development, formerly the Science Education Center of the University of the Philippines. I will mention three studies which were done after the adoption of bilingual policy in education in 1974.

One was a study of about 40,000 secondary pupils in three regions using 800 words which are nontechnical but are used in science lessons. In that study, it was found out that of 90 percent of these words used as the level of mastery, only 1 percent has been mastered. So, we cannot expect to have scientific thinking and scientific mastery using a foreign laguage. Proceeding from some technological inadequacies, a study was again conducted in 1983. This was a study involving 40 students and subjects like English, science, mathematics, social studies and Pilipino. Except for Pilipino, all the mastery levels were below 50 percent. English has the mastery level of 43.8 percent; science has 36.4 percent, mathematics has 43.4 percent and social studies has 40.5 percent; Pilipino has a mastery level of 53 percent. In 1985, another study was made. The conclusion was that there seems to be an agreement that the child learns faster in a language familiar to him and that the foreign language limits and even deters the learning process. In terms of the technical problems of developing further Pilipino, I think we must learn the lessons from Malaysia and Indonesia. Within the span of 25 years, they were able to move from the adoption of Bahasa Malaysia as an official and national language for its actual use in government, commerce and industry and as a medium of instruction up to the tertiary level. I think if Malaysia and Indonesia had the political will to do it, I do not see any reason why we cannot. It is high time that we should do it.

Thank you, Madam President.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I just say my last few words on this subject before the committee takes action on the proposed amendments. I want to thank Commissioner Natividad for making reference to an event that happened some years ago which I have already forgotten but the records of the Philippine government will show that as a delegate to the conference of the International Labor Organization and later on president of that distinguished body, I was the first national official of this country to speak entirely in Pilipino in that international conference, and indeed the ILO conference is probably the biggest of this type because the delegations were tripartite. Governments' employers and workers of all countries sent their delegations there.

Also, I want to confirm what Commissioner Natividad said. After delivering my speech entirely in Pilipino, a certain delegate from the United States walked down to my place in the conference to congratulate me on my brilliant speech "in Spanish." Of course, I had to explain to him that the speech was not in Spanish, but it was in Pilipino. Noong panahong iyon, sinabi ni Father Chirino, isang pari na tumira at nagsulat dito sa atin may 400 taon na ang nakaraan, na ang wikang Pilipino ay higit na malambing kaysasa Pranses, higit na matipuno kaysasa Ingles at Aleman at higit na malinaw kaysasa Latin at mabunyi na katulad ng Griyego. Samakatuwid, iyan ang dahilan kaya ang wikang Pilipino ang aking ginamit.

Madam President, as earlier pursued in the interpellations of Commissioners Tadeo, Natividad and Bennagen, at this point I would like to develop very briefly what I consider to be the major nexus between language and democracy, and language and economic development.

For the benefit of the Commission, may I recall a very strange convergence of events over 15 years that I had served in the Cabinet. Three Japanese ambassadors made their call on me during that time. Ambassador Urabe was the first when he was saying farewell. Over a space of 15 years, I once asked the departing Japanese ambassadors; "What do you think of us, of our future? Can we ever be a new Japan?" And as though on a signal from some invisible foe, the three Japanese ambassadors, over that period of time, did not differ in their evaluations of us. They said:

> You have the talent; you have the literacy rate; you have the potentially first-rate human resources; you have the bounty of God, both above the ground and below the ground, in natural resources. You are more fortunate than we are in that sense.

But each one of them said:

> Until you develop a language of your own, you will never achieve that depth of national cohesion necessary for you to achieve real industrialization and sustained economic growth.

I could never forget that.

My friends, there is indeed that nexus between economic development and social justice. Commissioner Tadeo is right. So long as we have not developed this national language to which we now give the code name "Filipino," this, being a more liberalized and open-ended language than what it replaces, "Pilipino" with a capital "P," then the structure of society and politics will remain so skewed that the rest of the country would have to depend on a narrow-broker class of English-speaking people who would have to stand between the masses of the people and their government to interpret to the people what the government is doing and to raise to the attention of government what the people are doing. The possibilities of direct dialogues of the type that we hope to institute through the various provisions of this Constitution will not be achieved until such a common bond emerges.

Therefore, the interest of economic growth and the interest of equity and justice among our people require that we take action on this committee report. The approval of a national language will be remembered down the corridors of history in the coming centuries as one of the real and enduring achievements of this Commission.

Thank you, Madam President.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. May I speak on why the committee feels that we should mandate in the Constitution a national language and why should there be a need to have a medium of communication for economics, for public and business administration. Of course, the more important objective is two-fourths national integration. As we know, about 10 to 20 percent of the elite speak in a different language and this has further widened the disparity between the culture of the elite and that of the majority. Since economics and business transactions are in English, this has polarized even economic policies.

I remember we had this problem when we discussed the Article on National Economy and Patrimony because the issues were not translated into the national language which majority of the people can understand.

To reinforce Commissioner Ople's statement, the children in Japan learn science and technology in their own national language at an early age. This is true in the USSR and in Australia. They are, of course, advanced in terms of productivity.

Let me quote in final what Gunnar Myrdal says in terms of his support on why we should have a language of communication in public administration. He says:

> No real emotional integration of the new nations and, therefore, no secured national consolidation is possible as long as the members of the tiny upper class in charge of administration, law enforcement and modernized business and industry communicate in European tongue and the masses speak only in their native tongue.

An elected assembly must be narrowly selective on a class basis, rather truly representative, as long as a law or custom decrees that the language of debate be foreign. The people cannot be brought to accept responsibility to their own local and provincial affairs and community cooperation. That democratic planning is so essential for development unless they can deal with an administration that does its speaking and planning in their own language.

So, it is important that we begin to move towards having our own national language in public, business and economic transactions if we have to forge a nation. It is about time that we mandate this now in our Constitution.

Thank you, Madam President.

MR. ROMULO. Madam President, may I ask that Commissioner Bacani be recognized?

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Thank you.

First of all, I agree with the Commissioner that we need a national language, but I would like to ask the committee two questions. First, regarding the language used by Commissioner Tadeo, would that be Filipino?

MR. VILLACORTA. That would be more Pilipino with a "P" because he, being from Bulacan, speaks beautiful and literary Tagalog.

BISHOP BACANI. Second, the Commissioner has mentioned some phrases which were obviously not Tagalog. Is that meant to be an example of Filipino?

MR. VILLACORTA. Yes.

BISHOP BACANI. The Commissioner has mentioned some words like "dini" or "bana."

MR. VILLACORTA. I also mentioned "Sain ka maglakad pagkatapos dini?" That was actually said in the public hearing in Sorsogon. Someone asked the three of us, Commissioners Tingson, Tadeo and myself, who were present in that public hearing where we were going after our stay in Sorsogon. It was stated in such a manner. Commissioners Gascon, Sarmiento and I went to Masbate and we learned that Masbateño is actually a mixture of different dialects, like Bicol, Samar, Visayan, Cebuano, Ilonggo, Tagalog and some other languages. I remember I attended a mass there and the parish priest gave his sermon in Masbateño. I understood most of it because there were many words, not just Tagalog but other words, that could be popularly understood in most parts of Luzon and Visayas. I was then thinking probably this is the future Filipino, the integration, natural, not contrived, evolution of the national language that will incorporate the different words of our languages.

BISHOP BACANI. I notice that when the Commissioner was speaking, I could understand the words but I could not easily get the sense. That is the reason I ask these two main questions: Is the language of Commissioner Tadeo Filipino? Were those phrases mentioned by Commissioner Villacorta meant to be Filipino? Let us have a national language which is Filipino. Thus, it will be either of these two. In other words, is Filipino not yet an existent national language? Is it a language that is still to be formed?

MR. VILLACORTA. It is an existent national language and the nucleus is Pilipino with a "P." The contemplation of the committee is that the nucleus is still Pilipino because it is already a widespread existing language – Pilipino with a "P." We also said that there is an existent broadened, expanded language called Filipino and its formalization has to be done in the educational system and others but it does not mean that since it is not yet formalized, it is nonexistent. It is a *lingua franca*.

BISHOP BACANI. So when we say the national language of the Philippines is Pilipino, are we not saying that the national language of the Philippines is the language spoken by Commissioner Tadeo?

MR. VILLACORTA. It is part of that national language. Commissioner Bennagen, who is an anthropologist, will be able to expound on this issue.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. There seems to be an assumption that a language comes fully blown at a particular point in time. That is not the case. I think even we, who speak our own native language, cannot pinpoint a specific period in history when it emerged full-blown. So we should look at language as a growing organism and that it grows in at least two identifiable ways: First, it is unplanned – that which is used in everyday life by people of all sorts with different first languages who come into contact with each other. Second, through a planned manner which we hope should be mandated by this Constitution. For instance, in 1957, the people of Malaysia decided to have Bahasa Malaysia as their national language. They undertook a great deal of studies. But it was only sometime in 1972 or around 1973 when they had to systematize the spelling. In 1973, it finally became the medium of instruction up to the tertiary level although it was already being used in government, in commerce and in industry. So we should look at Filipino as a growing language which partakes of the various languages, some of which are already being manifested in the discussions on the floor. For instance, if I go to Mindanao, as in fact I did in early April, a language that you would call Filipino would rely on Tagalog and partly on Cebuano and English. A language that one would speak in the North would partake of other languages and these have to be codified in a planned manner to accelerate and facilitate the growth of this emerging language. That is why we say that in the proposal it should be further developed on the basis of Philippine and other languages and that step shall be taken by the government, et cetera, to accelerate this law.

BISHOP BACANI. Thank you very much for the clarifications.

MR. COLAYCO. Madam President, may I ask the committee a question?

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Thank you very much, Madam President.

I understand that the committee distinguishes the words Pilipino with a "P" and Filipino with an "F." Is that correct?

MR. VILLACORTA . Yes, Madam President.

MR. COLAYCO. I am confused on the meaning of the two. What is "Pilipino" and what is "Filipino"?

MR. VILLACORTA. "Filipino" with an "F". is an expansion of Pilipino. It is the name for the *lingua franca* that has naturally evolved throughout the country. It is not purely based on Tagalog. It has incorporated words from other Philippine languages and dialects as well as from English and Spanish.

MR. BENNAGEN. Madam President.

MR. COLAYCO. May I finish,please?

The Commissioner's own recommendation is that the language should evolve not only from Tagalog but also from all the rest of our spoken dialects.

MR. VILLACORTA. Yes, Madam President.

MR. COLAYCO. Does not the Commissioner think that it would be more historically correct to use "Filipino" because it comes from "Filipinas" which comes from "Felipe"?

MR. VILLACORTA. Exactly, we are for F.

MR. COLAYCO. Precisely. So, I ould not use the term "Pilipino" and just refer to our national language as "Filipino," whether it is broken Tagalog or otherwise.

MR. BENNAGEN. "Filipino," yes.

MR. VILLACORTA. That is our proposal, Madam President.

MR. COLAYCO. My proposal is to use the term "Filipino" only because that is the correct term historically.

MR. BENNAGEN. We are using "Filipino."

MR. VILLACORTA. With an "F," Madam President.

MR. COLAYCO. So, we are going to discard "Pilipino."

MR. BENNAGEN. Yes.

MR. VILLACORTA. We are discarding "Pilipino."

MR. COLAYCO. For me it sounds "pilipit."

MR. VILLACORTA. I beg the Commissioner's pardon.

MR. COLAYCO. It sounds "pilipit," if we use "Pilipino." So, we are now retaining "Filipino" officially.

MR. BENNAGEN. Yes.

MR. VILLACORTA. That is right, Madam President.

MR. COLAYCO. Thank you.

MR. BENNAGEN. Madam President, just a little footnote to the comment of Commissioner Colayco.

There is one other reason why the shift was made from "P" to "F" because "Pilipino," as officially evolved, was used to refer to an improvement of Tagalog; it is really Tagalog-based. Then, eventually, it said that Tagalog, of course, has no letter F, and to reflect this expansion, this liberal move towards the adoption of other languages into an emerging national *lingua franca,* maybe it should be "F" instead of "P." That is really the immediate reason for this.

Incidentally, I would like to quote from the position paper sent to us by the executive council of the Language Educational Council of the Philippines, which is made up of 12 organizations of language scholars:

> We accept that the national language be called "Filipino" with an "F" instead of "Pilipino" with a "P" with the meaning that Filipino is the expanding and spreading Pilipino because that is what is really happening now in the elaboration and intellectualization of our national language especially from the other debates that have to do with intellectualization and elaboration.

I think that is a very strong support for the adoption of "Filipino" not only as an official and national language but as a medium of instruction. These are scholars that are indeed active in the advancement of Filipino as a national language.

Thank you, Madam President.

THE PRESIDENT. Mr. Chairman.

MR. VILLACORTA. Yes, Madam President.

THE PRESIDENT. Yesterday there was a new formulation of the first sentence, I believe, of Section 1. Is that still the statement that will be submitted to a vote? Is it the one that was read yesterday by Commissioner Davide?

MR. VILLACORTA. Commissioner Rigos will reply to that, Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, last night, it was agreed that we would sleep over this. After the session, the committee had a brief meeting and in that meeting we felt that since there was really no substantial difference between the proposal of Commissioner Davide and the formulation of the committee, we would rather stick to the committee recommendation, copies of which have been distributed earlier. So the committee is quite divided on the Davide proposal and, therefore, the consensus was that we would stick to the committee recommendation.

THE PRESIDENT. Is Commissioner Rigos referring to the committee report on this colored paper?

REV. RIGOS. Yes, Madam President.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. ROMULO. I ask that Commissioner Aquino be recognized.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I fully support the committee recommendation on the adoption of Filipino as the national language. However, I requested for this chance because I differ with the perception of Commissioner Tadeo when he presented an analysis on the underdevelopment of Filipino as a national language. He said that the reason for the underdevelopment of Filipino as a national language is the indecision of government to adopt a policy to use Filipino as the medium of instruction. I would submit that it is not so much that as it is actually the undercurrent of the historical baggage which was decisively and unjustly imposed upon us by the Spanish colonial masters. It was, after all, the Spaniards who in their policy of "divide and rule" thought that the Filipinos are not worthy of learning Spanish. In fact, the linguistic policy of the Spaniards is still very much felt today. We have the rare spectacle of the same people, the Tagalogs and the Pampangos, living within the Tambongbong area near Baliwag, Bulacan, and divided only by a bamboo fence, speaking different and distinct dialects. This is the kind of policy that was aggressively pursued by the Spaniards. In fact, it was described by scholars as linguistic anarchy which presented a problem for the spread of Catholicism. The Spaniards were confronted with a dilemma because the teaching of Catholicism required a certain measure of intellectuality and understanding of fundamental precepts which would require, likewise, a certain measure of literacy. So the Spaniards had to decide. Do we teach the Filipinos Spanish or do we allow them to use their own dialect? They decided on the latter option.

It was because here in the Philippines they were not confronted by the elaborate, sophisticated and dazzling cultures of the Aztecs and the Incas the way they were confronted in Latin America. Instead, what they saw here was the vestigial influences of the Shrivijaya and the Madjapahit Empire, a culture which was unable to imbed influences in the Filipino psyche. What they saw was a Filipino people divided in terms of its cultural moorings and cultural traction. So, at that moment, they did not see the need to teach Spanish to the Filipinos the way they saw it in Latin America. They did not feel threatened by a unified people bounded by one culture.

This is the kind of historical baggage that nas to be addressed decisively and this is where the indecision of government policy in terms of correcting this historical injustice becomes an imperative. In the context of this perception, this is where we see the need for a policy that is not ambivalent and hermaphroditic, rather, a policy that addresses itself to the necessity of imposing Filipino as a medium of instruction. We cannot wait for the impossible day when the Institute for National Language, for example, would come up with a pronouncement that they have devised a language that will best suit the tempers and the aspirations of the Filipinos. The development of the language is not the task of scholars and researchers. Language is a developmental process. We have to learn to accept that it takes years or even decades for language to see its full fruition in the way of Bahasa Indonesia. We cannot also wait for the impossible day when an institute or a university will tell us that they have already designed Filipino. It is not the function of a university or an institution because it does not have the means nor the power to act as some kind of a midwife to a vibrant language. The law of language is the law of adaptation and growth. The law of growth could apply to English. English was for a time severely restricted even before the scholars and the writers like Hume and Milton used it to express their profound language; their profound thoughts; Japanese was severely restricted even before Admiral Perry brought Japan to the influence of the West; Bahasa Indonesia had the same problem before the Indonesians compelled themselves to adopt Bahasa Indonesia. If the same law of growth could apply to these languages, it could apply also to Filipino but it requires a definitive and decisive policy on the matter.

MR. ROMULO. Madam President, I ask that Commissioner Rama be recognized for his amendment.

THE PRESIDENT. Commissioner Rama is recognized.

MR. RAMA. Madam President, we are in the period of amendments and we have an amendment here which was formulated by several groups belonging to different linguistic areas. The amendment, strictly speaking, if we follow the Rules, would be an amendment to an amendment which was already presented by Commissioner Davide. The amendment simply says: "Section 1. The national language of the Philippines is Filipino," with an "F." And then we would like to delete the rest of the sentences from line 2 up to line 10.

May I ask Commissioner Davide if he accepts the amendment to his amendment?

MR. DAVIDE. Madam President, may I hear first the proposed amendment? By the way, yesterday the committee had already accepted my proposed amendment as borne out by the Journal, but a few minutes ago, Commissioner Rigos stated that the committee will stick to its original proposal. Does it mean that the committee had changed its position?

REV. RIGOS. Yes, Madam President.

MR. DAVIDE. So, I am ready to accommodate amendments to my proposal. May we hear further the proposal of Commissioner Rama?

MR. RAMA. The amendment simply reads: "Section 1. The national language of the Philippines is Filipino." And we request the rest of the section to be deleted.

THE PRESIDENT. But Commissioner Rama has additional words.

MR. RAMA. There are additional words but there is a request from the committee that first we vote.

MR. VILLACORTA. Madam President, we just like to point out that the Rama proposal is basically the same as the first sentence of the committee proposal. What the Rama proposal did was to break the first sentence of the committee proposal into two sentences.

MR. RAMA. Yes. By the way, there is a second sentence, Madam President.

MR. DAVIDE. May I request Commissioner Rama to read the entire substitute proposal.

THE PRESIDENT. The entire Section 1, yes.

MR. RAMA. Madam President, I am sorry. The proposal reads: "Section 1. The national language of the Philippines is Filipino. IT SHALL EVOLVE AND BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF THE EXISTING PHILIPPINE AND OTHER LANGUAGES." That is the end of Section 1.

MR. DAVIDE. Before accepting or rejecting the proposal, I seek some clarification. When the Gentleman states "ON THE BASIS OF THE EXISTING PHILIPPINE AND OTHER LANGUAGES," does he refer to the native or regional languages as the Philippine languages?

MR. RAMA. Yes, Madam President.

MR. DAVIDE. And other languages may refer to foreign languages?

MR. RAMA. Yes.

MR. DAVIDE. If that is so, I am happy to accept the proposed amendment.

MR. RAMA. May I know what is the thinking of the committee with respect to this amendment?

MR. VILLACORTA. These first two sentences of Section 1 are acceptable to the committee. However, we do not approve the deletion of the rest of the sentences in the committee proposal, so we would like to request the proponent to ask for a voting only of these first two sentences in the Rama proposal and grant the committee the right to submit for voting the rest of the sentences in the committee's Section 1.

THE PRESIDENT. We understand from lines 3 to 10.

MR. VILLACORTA. That is right, Madam President.

THE PRESIDENT. Would the committee keep those sentences there?

MR. VILLACORTA. Yes, Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Ginang Pangulo, puwede po bang magsalita bilang pagkatig sa susog na ito ni Commissioner Rama? Nais kong ilagay sa Rekord ang aking pagkaintindi sa salitang Filipino – "F" ang unang letra. Ang unang mahalagang malaman natin ay itong "Filipino" ay hindi isang bagong kinatha o kakathaing lenggwahe. Ito ay batay sa "Pilipino." Palalawakin lamang natin ang saklaw ng "Filipino." And "Pilipino" naman, with a "P," saan nanggagaling iyan? Noong 1935, sa ating Saligang Batas ay ipinag-utos:

> The Congress shall take steps towards the development and adoption of common national language based on one of the existing native languages.

Iyan ay nagkaroon ng implementasyon at ang pinagbatayan ay ang Tagalog. Kaya nga't ang "Pilipino" ay batay sa Tagalog at ang "Filipino" ay batay sa "Pilipino." Kaya't hindi natin buburahin ang mga nakamtan na nating mga developments sa "Pilipino."

Ngayon, ano ang nangyari roon sa "Pilipino"? Bakit tinalikdan iyang "Pilipino" at ginawang "Filipino"? Palagay ko, ang isang dahilan ay sapagkat noong nagkaroon ng Surian ng Wikang Pambansa na pinamunuan ng nasirang Lope K. Santos, sumalangit nawa siya, ang kanyang sinunod na patakaran ay yaong tinatawag na purismo. Mayroon tayong maraming salita sa wikang Tagalog, Cebuano, Hiligaynon, Ilokano, Bikolano na hango sa wikang Kastila. Mula sa 6,000 hanggang 10,000 mga salita ang hango sa wikang Kastila – libro, mikropono, sapatos, pantalon, bintana, silya – nguni't ang ginawang patakaran ng Surian ay purismo. Umimbento ng mga bagong salita. Halimbawa, kapag sinabi mong "gramatika" ay maiintindihan na ng lahat, maging ng mga Tagalog, Cebuano, Ilokano o Bikolano. Pero ang Surian ay kumatha o umimbento ng bagong salita – "balarila." Iyong salitang "diksiyonaryo" ay alam na ng lahat ngunit muling kumatha ng bago – "talatinigan"; "boka-

bularyo" – alam na ng lahat, pero kumatha ng "talasalitaan." Kaya't may nagsabi na iyon daw silya ay ginawang "salumpuwit." Mga kaibigan, noong ako ay nasa Senado at araw ni Balagtas, Abril 2, ako ay nagtalumpati on a privilege speech at binatikos ko iyong purismo. Ang sabi ko ay hinirapan natin ang wikang Tagalog maging para sa Tagalog. Ako ay sumusulat sa Tagalog; tumutula pa ako kung minsan sa Tagalog. Nguni't alam ba ninyo na iyong aking mga apo ay natutulungan ko sa homework nila sa arithmetic at history pero hindi ko matulungan sa wikang pambansa o national language? Napakaraming bagong mga salita na ni ako ay hindi ko naiintindihan. Kaya noong ako ay nagtalumpati, sinabi kong pati iyong "silya" ay gusto pang gawing "salumpuwit." Nais kong liwanagin naman, Ginang Pangulo, na hindi galing kay Lope K. Santos iyan. Iyan ay katha ng ibang tao.

Noong nag-recess kami sa Senado, lumapit sa akin si Don Claro Recto. Alam ninyo medyo pilyo iyang si Recto. Sabi sa akin, "Hoy, Soc, binabati kita. Mayroon lang akong itatanong sa iyo." "Ano ho iyon? " wika ko. Ang sabi niya, "Kung 'yong 'silya' ay 'salumpuwit,' iyong 'bra' ng mga babae ay salong ano? " *(Laughter)*

Minsan naman, sinabi ni Raul Manglapus, "Hindi ba iyong telegrama ay gusto pang gawing 'pahatid-kawad'? "Oo," wika ko. Sabi niya, "Eh, kung iyong telegrama ay pahatid-kawad, iyong 'wireless' ay ano? " "Aba, eh, siyanga pala," ang wika ko; sabi ni Raul, "Siguro iyon ay pahatid-kawad-na-walang-kawad." *(Laughter)*

Kaya nga naantala ang paglaganap ng ating wika. Natakot ang mga estudyante. Kahit ang mga Tagalog ay natakot. Ang mga Tagalog ay lumalagpak sa national language. Kaya nga iyan ang isang dahilan kung bakit ginawang "Filipino." Ako ay nagagalak sapagkat akalain ba ninyong inalis iyong napakaraming letra sa ating alphabet. Inalis ang letters "c," "f," "j," "q," "y" at "x." Kawawa naman ako. Ako ay Francisco, nawala iyong "f," iyong "c" ay magiging "k," kaya ako ay "Prankisko." *(Laughter)* May nagsabi pa sa akin, kung ang lahat ng "c" ay magiging "k," iyong "Cecilio" ay ano? Di 'Kekilyo,' wika niya. *(Laughter)*

Kaya't ako ay kumakatig na ang ating gawing wikang pambansa ay ang Filipino. Marami pong salamat at ako ay lumabis ng dalawang minuto sa tatlong minutong toka sa akin.

Salamat po.

THE PRESIDENT. Salamat po.

MR. RAMA. Madam President.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. May I speak as an Ilonggo, Madam President, to support the amendment using the word "Filipino."

THE PRESIDENT. Please proceed.

MR. TINGSON. Commissioner Rama is wanting to speak first, and I cannot disobey his request. I yield to wait, Madam President.

MR. RAMA. Madam President, I think I owe the body an explanation as to why I am deleting the rest of the sentences. The reason for this is that the issue of language and the selection of the national language in a country like ours which has several languages is a very emotional one. I remember that there was almost bloodshed in the Constitutional Convention of 1971 because of this issue. In other countries this has triggered revolutions. It is really very emotional. My premises and the plea that I am making now are a plea for sobriety and national unity in the discussion of this very emotionally charged issue.

We have certain premises here for this amendment, Madam President. The first premise is that whether we like it or not, a nation should have a national language. That is why we started with the premise that the national language of the Philippines is Filipino.

There are other realities, Madam President. The other reality is that there are millions of Filipinos who cannot speak Filipino, whether we like it or not. The other premise is the headstart that Filipino has gained and the advantages that have been obtained by its cultivation as a language which was enshrined in the 1935 and 1973 Constitutions. Whether we like it or not, Filipino will be the only language in the future for the Philippines. Inexorable is the march of Filipino. So, we must realize that.

On the other hand, there are realities which we cannot ignore – the reality of the difficulties that could be inflicted upon the people, if we rush this acceptance or this imposition of Filipino as the national language. For instance, if we require that the medium of instruction be Filipino, that would impose a constitutional handicap on the non-Tagalog speaking students. They would be coping with a language that they cannot understand in learning the basics of education. That would be a handicap on them, and it is unfair. My point is that this can be done later because it is a fact now that the Cebuanos are learning more and more Filipino or Tagalog for the simple reason that it is there already; it has a headstart of 50 years and the Cebuanos, I think, are reconciled to the fact that Cebuano, although we contend more Filipinos speak Cebuano, cannot at this stage become the Filipino language. But we are seeking understanding, and I thought that the unity of the Philippines or the Filipinos is more important than the language issue that we are now discussing.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Likewise, may I add something positive for I also believe that the issue of language should not be divisive. It should really unite us. Alam ninyo, mahal na Presidente, pinipilit po naming mga Ilonggo ngayon na mag-Tagalog o magsalita sa ating wikang pambansa. Sometimes we hesitate to do that in Manila because the purists laugh at us. But we are happy to hear here that we are now wanting to refer to Filipino as isang salita po, at halu-halo ang pinakamagandang palabra from Tagalog, Ilonggo, Cebuano and Ilokano. And this is beautiful.

Alam ninyo, mahal na President, sa amin po ay mayroong palabra for "heart," which is more romantic than the Tagalog pure word. Ang ginagamit po ninyo rito ay "puso"; sa amin po, kinakain namin ang puso ng saging. As an Ilonggo, I would say "amen" to this. Let us use the more romantic word "kasing-kasing" which the wife of Commissioner Romulo, I am sure, must be using when she refers to her love for him, she being an Ilonggo. Ang ibig po naming sabihin ay mukhang maganda yata if we express it like "irog ng buhay ko," "Inday na mahal ng buhay ko, iniibig kita sa tanan ko nga kasing-kasing." It really would sound very romantic, Madam President. And I would support this particular amendment to the extent of deleting the other sentence which reads: "Steps shall be taken by the government to further develop, enrich and use it as a medium of communication in all branches of government and as the language of instruction at all levels of the educational system."

Madam President, I submit that it is already understood if we approve the first sentence which says that the national language shall be Filipino. The regional languages shall serve as auxiliary media of instruction in the respective regions. English shall be maintained as a second language and as an alternative medium of instruction until otherwise provided by law.

I submit, Madam President, that those are all really understood if we will be doing this. And may I close by saying that we have a prayer in Ilonggo that would sound good in my pure Ilonggo. But if I would put it in Filipino, it will be: "Panginoon, bigyan mo po kami ng mga Filipinos nga may kasing-kasing na mahinulsulun. Nga nagahigugma sang katarungan apan nagasabdung sang kalainan. Kay Ginoo, ito pong mga Filipinos ang aming bayan ngayon may kailangan kay amo ining mga Filipinos nga may matuod nga sadsaran."

How beautiful that is, Madam President. That is Filipino.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, just a reaction of the committee. First of all, we would like to express our appreciation to Commissioner Tingson. He has just demonstrated what Filipino is all about. But using his words: "Nagahimo kami sa mga Commissioners na hinigugma ang katarungan." We want justice for the committee. I do not think there is this threat of bloodshed that we found in the 1971 Constitutional Convention. Basically, the Rama proposal is for the first two sentences of Section 1, which is the formulation of the committee. We will grant the credit to Commissioner Rama that this is his brainchild. Let the record show that. So, there is unity. What are we afraid of? Why do we want to delete these sentences of lines 3 to 10? If we must lose, let us lose honorably.

MR. RAMA. Yes.

MR. VILLACORTA. Give us the chance to argue this case, to have a vote on this and if we lose, we lose. Pero bigyan ninyo naman kami ng esperanza. Hindi lamang iyong esperanza party ang may esperanza, para naman pagkatapos ng Constitution ay makatulong din kami sa pag-campaign for its ratification; hindi iyong masama ang loob namin dahil hindi ninyo kami binigyan ng esperanza na mapapagbotohan iyong pinaghirapan namin sa loob ng ilang buwan. Pinag-aralan din naman namin itong lines 3 to 10.

MR. RAMA. I think the Gentleman is under the misimpression that just because I asked for a deletion of these words or sentences, he will not be allowed to argue. Precisely, he will have his full say about why he is in favor or why this should be retained. So may I wind up, as I meant to, before I was joyfully interrupted by Commissioner Tingson that the point is that all these objectives and aims of the committee will be achieved in the future. I already see it in Cebu which is the most chauvinistic of our linguistic groups. The young people there are learning Filipino. These aims will be achieved, but we cannot rush this thing. And as to the concern of Commissioner Aquino, I would tell her that the objective is being achieved already and it is not necessary for us to court an upheaval regarding this language because we realize that there must be a Filipino language.

MR. MONSOD. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I believe the issues have been joined. The committee has already said that it would prefer to vote on the first two sentences and then tackle the issue of the next three sentences. So, may we have the vote now on the first two sentences, Madam President?

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Subject to the Chair's ruling on that motion, I would like to speak against the motion to delete lines 3 to 10, but I would submit to the ruling on the first motion.

THE PRESIDENT. Commissioner Aquino may proceed on her argument.

MS. AQUINO. Madam President, I would like to speak against the deletion of lines 3 to 10. I think that the arguments being presented are very sensible. In fact, they have their own historical moorings but for the moment they may seem to be very superficial already.

Language is a process of growth and its development, even under the best and the most ideal circumstances, takes time. It even takes decades. We have to learn to accept that truth and in accepting that truth, we should not lose time in adopting and using one language as the medium of instruction whatever are its imperfections; that is, if we are agreed that we want to adopt our own instead of eschewing our own and embracing something which is alien. Otherwise, if we cannot agree on that, we might as well cease all of these hypocrisies and adopt English as the medium of instruction. The only limitation to that, however, is that we have already lost time, and we will cut a pathetic figure if at this moment we will make that atavistic move in adopting a foreign language instead of adopting Filipino.

MR. RAMA. Madam President, may I now read my proposal which, as the committee has asked, is to be voted on: "Section 1. The national language of the Philippines is Filipino."

There is a small amendment presented by Commissioner Bernas which is a matter of form. Instead of "IT SHALL EVOLVE," it shall read: "IT SHALL BE ALLOWED TO EVOLVE AND BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF THE EXISTING PHILIPPINE AND OTHER LANGUAGES."

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Before we vote, may I just say a few words? Asking the kind indulgence of the body last night, I objected to the committee's formulation. I insisted that we use the words "SHALL BE" instead of "IS." So, Madam President, may I retract my previous stand and support the committee's formulation. I did not elaborate my position; all the things were stated by my colleagues. All I can say is that we have an evolving, active and dynamic *lingua franca* and this is Filipino. So, I am supporting the committee's formulation.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. I think Commissioner Monsod was suggesting that we first vote on these first two sentences, as amended by Commissioner Bernas, without prejudice to further discussion of lines 3 to 10 regarding the use of the language as a medium of instruction. So, the committee is prepared to vote on this.

THE PRESIDENT. This proposed amendment of Commissioner Rama and the others would actually be a substitution of the committee's formulation of Section 1.

REV. RIGOS. That is right, Madam President.

THE PRESIDENT. In other words, this will just be the sentences to compose Section 1, according to Commissioner Rama. Is that not correct, Commissioner Rama?

MR. RAMA. And which was accepted by the committee.

THE PRESIDENT. No, can we just have this clarified because that will affect the voting? Is this only a substitution of the first sentence of Section 1?

MR. RAMA. The amendment in full will read: "Section 1. The national language of the Philippines is Filipino. IT SHALL BE ALLOWED TO EVOLVE AND BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF THE EXISTING PHILIPPINE AND OTHER LANGUAGES."

MR. VILLACORTA. Madam President, the committee is not accepting "IT SHALL BE ALLOWED TO EVOLVE." What we are accepting is "IT SHALL EVOLVE" because that is watering down the intention. Who will allow the evolution? Why do we have to say "SHALL BE ALLOWED TO EVOLVE"?

FR. BERNAS. Madam President, actually, my proposed amendment was to delete the word "EVOLVE" because one does not legislate evolution. Evolution just happens. When one says "it shall evolve," he is just making a statement that in the natural course of things it shall evolve. But what one really wants to do is more than just allowing it to evolve or more than just to watch it in its natural evolution but rather to help it in its evolution.

THE PRESIDENT. So, how is it to be formulated?

FR. BERNAS. My proposed amendment would be just to drop the word "EVOLVE."

THE PRESIDENT. How is it?

FR. BERNAS. "IT SHALL BE FURTHER DEVELOPED . . ."

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I be allowed a brief comment concerning this? I think the word "EVOLVE" should be retained. It is a recognition of the fact that the people themselves have the right to shape their own language as they choose freely outside any framework of law or a constitution, that we merely acknowledge by saying that "IT SHALL EVOLVE."

But, then, there is a volitional content immediately after that which is "BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF THE EXISTING PHILIPPINE AND OTHER LANGUAGES." So, there is an acknowledgment of a historical fact that languages do evolve in what economists call "the free marketplace of ideas." The transactions are not hindered but, at the same time, a law must be utilized to further develop these languages. That is why, later on, we call for a languages commission that will represent the use of state power in order to assist in the evolution and bring about the further development and enrichment of this language. So, may I support the retention of the word "EVOLVE" in its present form and, in fairness to the committee, may I say that nothing in this new formulation detracts from the original formulation of the committee. I do not want Chairman Villacorta to harbor any thought that the committee had been deprived of any credit. As restyled, this is essentially the same formulation as that of the committee.

MR. VILLACORTA. Madam President, we were protesting the words "IT SHALL BE ALLOWED TO EVOLVE." We were in favor of "IT SHALL EVOLVE."

MR. OPLE. I also support the committee's position on that matter.

MR. RAMA. I accept the committee's position, so we delete the words "BE ALLOWED TO" which is the Bernas proposal. Therefore, I insist that we take a vote on this.

THE PRESIDENT. Yes, but I want a clarification, Mr. Chairman. The committee accepted the formulation of Commissioner Rama. Does the Chair understand that with the acceptance of this, the committee is foregoing lines 3 to 10?

MR. VILLACORTA. No, Madam President, on the contrary.

THE PRESIDENT. That is clear then.

MR. SARMIENTO. Madam President, may I make a humble suggestion. May I suggest that we vote on the first line before voting on the second line. We have done this in the past. There are comments on the second sentence; like, for instance, I heard a comment that we should delete the word "EVOLVE" and adopt the original.

VOTING

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; we will proceed as suggested.

As many as are in favor of the first line of Section 1 of the Rama amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 43 votes in favor and none against; the first sentence is approved. *(Applause)*

MR. AZCUNA. Madam President.

THE PRESIDENT. May we request our guests at the gallery to please refrain from applauding or making any other demonstration.

MR. RAMA. Madam President, the second sentence reads: "IT SHALL EVOLVE AND BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF THE EXISTING PHILIPPINE AND OTHER LANGUAGES."

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. I propose that instead of "IT SHALL EVOLVE," we use the words "AS IT EVOLVES, IT SHALL BE FURTHER DEVELOPED."

THE PRESIDENT. How is that, Commissioner Rama?

MR. RAMA. I accept the amendment, Madam President.

MR. VILLACORTA. The committee accepts.

MR. AZCUNA. Thank you.

THE PRESIDENT. Is there any objection?

MR. SUAREZ. Madam President, may we be recognized?

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

May we clarify a point with the Honorable Rama.

THE PRESIDENT. Please proceed.

MR. SUAREZ. Thank you, Madam President.

Commissioner Rama uses the word "EVOLVES" as distinguished from "DEVELOPED" and "ENRICHED." Can he tell the Commissioners the significance, the thrust and the meaning of the word "EVOLVES" as compared with the words "DEVELOPED" and "ENRICHED"?

MR. RAMA. I should like to answer Commissioner Suarez. I have my answer, but this word came from Commissioner Ople and I would not like to preempt the explanation of Commissioner Ople.

MR. OPLE. Madam President, in the first place, I think Commissioner Rama has already accepted a proposed amendment of Commissioner Azcuna, and I believe the committee has similarly accepted this new proposal, so that instead of saying "IT SHALL EVOLVE," the new phrase is "AS IT EVOLVES." This is just an acknowledgement of the historical fact that languages do evolve independently of what lawmakers say. It is a kind of recognition of the point very often made by others who do not believe in State intervention on the matter that a language is something organic that evolves according to the people's own preferences. But as now stated, I think any kind of controversial tinge is eliminated by the Azcuna amendment; and Father Bernas is himself accommodated in the sense that the amendment now reads: "AS IT EVOLVES, IT SHALL BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF EXISTING PHILIPPINE AND OTHER LANGUAGES."

Thank you.

MR. SUAREZ. Madam President, we are seeking clarification precisely because of the impression that the expression "EVOLVES" may convey because the first sentence is a declarative positive statement. It already states here that the national language of the Philippines is Filipino. That means it had already evolved as a national language.

MR. BENNAGEN. Yes, but still growing.

MR. SUAREZ. So, I agree with the Gentleman that it is still in the process of evolution in the Darwinian concept.

MR. OPLE. Yes.

MR. SUAREZ. I just would like to clear up that matter.

MR. OPLE. Yes, it is a Darwinian concept – evolution, natural selection. And in the process, if the Pampango language succeeds in contributing a disproportionate volume of words into this evolving Filipino language, then that will be a tribute to the Pampangueños who, in any case, representing only three percent of the Philippine population, are already disproportionately represented in the arts, letters, journalism and in all the creative branches.

THE PRESIDENT. Is Commissioner Suarez already satisfied?

MR. SUAREZ. Yes, I am satisfied. Thank you for the clarification.

MR. RAMA. May I read the sentence again, Madam President, as amended by Commissioner Azcuna and accepted by the committee: "AS IT EVOLVES, IT SHALL BE FURTHER DEVELOPED AND ENRICHED ON THE BASIS OF EXISTING PHILIPPINE AND OTHER LANGUAGES."

VOTING

THE PRESIDENT. As many as are in favor of the second sentence, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

Is Commissioner Davide voting against? Just to clarify.

MR. DAVIDE. In favor.

THE PRESIDENT. The results show 44 votes in favor and none against; the sentence is approved.

MR. VILLACORTA. Madam President, may we request a voting of the continuation of Section 1 from lines 3 to 10. May the committee support the position manifested by Commissioner Aquino that in the development of the national language, our approach must not be hermaphroditic, which was the case in the past. There was this half-hearted intention to develop the national language. And as a result of that, we have a case of an arrested development of Pilipino and Filipino in the 1973 Constitution.

The reason, Madam President, the committee feels that steps should be taken by the government to use "Filipino" as a medium of official communication and as a language of instruction is that as borne out by the experiences of other countries, as well as of our own country, a national language is useless if it is not used as the language of instruction and a language of official communication. Moreover, as the materials that we distributed to the body show, a small percentage of our population has mastered the English language. Science and technology, which are usually transmitted in the English language, do not manage to reach the masses of our people who remain semiliterate and ignorant about scientific concepts, skills and principles and this has adversely affected the economic and social development of our people.

That is why, Madam President, we thought that we should stipulate clearly in the Constitution that resolute steps shall be taken by the government. Anyway, this is stated in the future tense and it does not really require the government to immediately implement it. Moreover, for those who are worried about the status of English, it says here that English shall be maintained as a second language because we, in the committee, still acknowledge the fact that the English language is our bridge to the outside world and it must not be shelved as a second language. And it says here also in our proposal that English shall remain as an alternative medium of instruction.

In addition to English, regional languages shall serve as auxiliary media of instruction in their respective regions. This is in recognition of the importance of developing our regional languages which have their own historical and rich literature that is worth preserving. And we know also that the language that is closest to the heart of any individual is that which is most effective in transmitting knowledge.

That is why, Madam President, with this guideline, the Ministry of Education, Culture and Sports can come up with a scheme in which the regional languages will be more extensively used in the lower levels of education.

FR. BERNAS. Madam President.

THE PRESIDENT. I will just propound a question to the committee. Will the committee agree that we take these different sentences separately? Let us say lines 3 to 6 or all of them would be taken as a whole.

MR. RAMA. Madam President, there is an anterior motion starting from line 3 – delete all the words beginning with "steps shall be taken" up to the end of this section which is on line 10. The motion to delete is the parliamentary situation.

MS. QUESADA. Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Bago kami nagbotohan, ang pagkaintindi ng aming komite ay tatalakayin pa iyong mga susunod na pangungusap dahil batay doon sa mga paliwanag kangina malinaw na kinakailangan ang pagsasakatuparan ng ating mga paniniwala. Iyong lines 1, 2 at 3 ay mga intention na hangga't hindi isinasa-kongkreto sa pamamagitan ng paggamit nito sa instruction at sa gobyerno ay talagang empty rhetorics na naman iyan dahil iyan ang istorya noong mga nakaraang taon. Naroon na iyon sa ating Konstitusyon, pero hangga't hindi isinasagawa ito sa ating ordinaryong araw-araw na buhay, sa loob ng gobyerno, sa administrasyon at saka sa ating edukasyon, sa palagay ko lahat ng iyan ay rhetorics na naman. Kaya ang appeal talaga namin sa body ngayon ay kung dadaanin na naman ito sa botohan, hindi na natin mailalaman ulit dito sa ating Konstitusyon sa section ng language ang napakahalagang probisyon at hindi na natin mabibigyan ng kahulugan ang mga pronouncements natin sa pamamagitan ng pagboto sa lines 1 to 3 on national language. Kaya sa palagay natin, ang dami na ng mga nagpaliwanag tungkol sa kahalagahan ng pagbibigay natin ng ganitong probisyon. Tayo ay naging napaka-generous sa ibang provisions. Sa mga nakaraan, naging madetalye tayo sa sports, sa suweldo ng mga guro, pero bakit hindi natin detalyehin iyong kung ano ang isasagawa ngayon nating lahat dito sa ating bayan kung totoo nga ang ating paniniwalang may political will tayo, na gamitin na natin ang Pilipino para ito ay madevelop further, hindi by mandate kundi iyong sa ating pagsasagawa ngayon sa ating gawain sa loob ng gobyerno at sa ating institusyon. So we hope that it will not just be an issue to be thrown to the body for voting because it is now being presented as an anterior proposal or amendment to the body.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, I just wanted to pose some questions for clarification to help me decide on what is on the floor now because there seems to be a contradiction between Section 2 and lines 3 and 4. Lines 3 and 4 say that "steps shall be taken by the government to use it as a medium of communication in all branches of government." That, to me, is a definition of what an official language is. So, whereas in Section 2 we are saying that Filipino is an official language, it seems to me that on lines 3, 4 and 5, we are saying that steps shall be taken to make Filipino an official language. There seems to be a contradiction there. We step backward. Already in Section 2, we say that Filipino is an official language and yet in Section 3, lines 3, 4 and 5, we seem to be saying that steps will be taken to make it an official language, because an official language means the language of communication in government.

MR. VILLACORTA. That point is well taken. What we really meant here was to reinforce it. We are open to suggestions, Madam President.

THE PRESIDENT. Is Commissioner Bernas through?

FR. BERNAS. Madam President, I would just like to speak against the deletion. I think we should give this a chance to be discussed. There are several concepts here—official language, language of instruction, auxiliary medium of instruction and all these. So, if at all we must have a deletion, let us move sentence by sentence rather than by one fell swoop, as they would say.

MS. ROSARIO BRAID. Madam President.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Let me just respond very briefly to the observation of Commissioner Bernas on the provision on Section 2 and the steps that shall be taken. I think the sentence in Section 2 merely underscores the status of Filipino and English as official languages, but our observation is that Filipino, as an official language, has been mostly practiced in stationeries and in government buildings as names and in titles as well as in posts of offices. We are saying on lines 3, 4, 5 and 6 down to line 10 that it should be actually utilized in government as well as in communications and in all levels of the educational system. When we go into the discussion of the sentences in detail, we will underscore the need for this by reference to other studies that already clearly show that unless we mandate government to implement this call for Filipino as a national language, it shall be nothing more than rhetoric.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I just take issue with some of the members of the committee who have tended to underrate the significance of the decision already taken by the committee and the Commission declaring Filipino as the national language of the Philippines. There is a sense in which having made this decision the rest follows. I do not want the committee to denigrate its own achievement in putting forward this historic proposal which the Commission has approved. It is not empty rhetoric; it is the settlement of a long, pending and nagging issue on the historical agenda of the Filipino people. I think we should not deny the committee and the Commission the credit for that.

Proceeding to lines 3 to 10, the proposal is for the Commission to vote on these two sentences step by step and separately, but before we do that, may I just say I have not conferred with the proponents of the amendment to Section 1 and lines 8 to 10. I am using the committee amendment draft. But I think we should grant the sincerity of those who profess a great unease about these sentences which will, in effect, prescribe immediately that Filipino shall be the medium of communication in all branches of the government and the language of instruction at all levels of the educational system. Let us grant the Members of the Commission who have some doubts about the feasibility of this statement the sincerity and conviction that they undoubtedly possess. Having declared Filipino as the national language of the Philippines and that as it evolves, it shall be further developed on the basis of Filipino and other languages, I anticipate at this point a later amendment constituting a language commission which, I think, nobody will reject.

Then there is some doubt about the practicality of mandating this as something immediate. Will the insertion of just a phrase ease the burden on the minds of those who are for deletion? For example, "AS MAY BE APPROPRIATE AND IN ACCORDANCE WITH LAW, STEPS SHALL BE TAKEN BY THE GOVERNMENT TO USE IT AS A MEDIUM OF COMMUNICATION IN ALL BRANCHES OF THE GOVERNMENT AND THE LANGUAGE OF INSTRUCTION AT ALL LEVELS OF THE EDUCATIONAL SYSTEM."

It is a mandate but, at the same time, we leave to Congress the practical task of determining how this mandate will be implemented.

MR. VILLACORTA. Madam President, is that not implicit in the committee proposal that Congress as well as other agencies of government will take steps? So, would it not be a surplusage if we say "AS MAY BE APPROPRIATE AND IN ACCORDANCE WITH LAW"?

MR. OPLE. Actually, I have no difficulty at all in accepting the committee formulation, but I defer to the sensibilities of colleagues who feel that when we state that Filipino is already the national language – Filipino with a capital "F" – then the rest follows. But if we do incorporate some provision of this sort, that will leave a large margin of discretion to the future Congress to implement the mandate of the Constitution. I do not know; I am merely projecting the idea that this sentence or the two sentences may be acted upon favorably by a good number of Commissioners who otherwise are plagued by doubt about the readiness of this Commission to act on this immediately. So that it can only say "AS MAY BE APPROPRIATE AND IN ACCORDANCE WITH LAW, the government shall take steps to use it as a medium of instruction."

MR. VILLACORTA. Madam President, may I just point out that in the 1935 Constitution, Section 3 states that:

> The Congress shall take steps towards the development and adoption of a common national language based on one of the existing native languages.

And we know that since then there were a few advances in the development of Filipino as the medium of instruction but from our point of view it was not; these steps were not adequate.

In the 1973 Constitution, Section 3 subparagraph 2, says that:

> The National Assembly shall take steps towards the development and formal adoption of a common national language to be known as Filipino.

And as expressed in the deliberations of this body, it was agreed that hardly anything significant was done by the government to develop Filipino.

In our formulation, Madam President, we used the same expression – "steps shall be taken" – but it is more forthright in the sense that we are not just talking about steps to be taken in developing the national language but in using it or reinforcing it as a medium of communication and as the language of instruction. As we had pointed out, the development of a national language becomes empty if we do not use it eventually as the medium of instruction. This was borne out by the experiences of Malaysia and Indonesia. It was only when these two countries developed Bahasa Malaysia in Malaysia and Bahasa Indonesia in Indonesia that the national language became very meaningful, because the national language was not used only in comedies, shows and in some newspapers, but it was used extensively throughout the school system and the government. Only at that point in time did the Bahasa language in these two countries become real as the national language.

MR. OPLE. Apropos of that, may I just comment briefly on the statement of the committee.

Of course, I think the committee is right in pointing out the relatively successful approaches to the national language in our two ASEAN partners and kindred nations, Malaysia and Indonesia. They have followed a course which was adopted to their own unique historical circumstances. In the case of Malaysia, there was no problem because the Malay language was common and universal to almost all of the Malayan states that later on were joined by Sabah, Sarawak in the Malaysia Federation of 1963. In other words, the historical equivalent would be if Filipinos spoke Tagalog already from north to south.

In the case of Indonesia, in 1927, when Sukarno launched the Independence Movement in Indonesia, one of the main items of his platform for Indonesian independence was the designation of Malay as the core language or the Bahasa Indonesia of the future. And in 1945, we had exactly opposite experiences with Indonesia. In Indonesia, the Dutch rule was ending the language of the Dutch as an international language and as an official language of Indonesia had lost such importance that it could be easily thrown into the Java sea without any loss whatsoever in Indonesia. In our own case, English, the language of the United States and the Anglo-Saxon countries of the world was just rising to the fore as the *lingua franca* of mankind. And so, the burden on the Filipinos for developing a national language was a hundredfold greater than in the case of the Indonesians and the Malaysians. I do not think we should deplore the way the national language has evolved because I do not call our national language policy a failure relative to Indonesia and Malaysia. I think the governments of the past since Quezon ought to be given some credit for having brought us this far in this search for a national language.

MR. MONSOD. Madam President.

MR. OPLE. I will terminate my intervention now simply by reiterating the insertion of this clause: "AS MAY BE APPROPRIATE AND IN ACCORDANCE WITH LAW," if this satisfies the concerns of those who otherwise would vote for the deletion of these sentences on the ground that fundamentally the mission of the Commission has been accomplished already in the first two sentences of Section 1.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I believe there is a motion to delete. I am one of the proponents. I just wanted to say that there is a big difference between the Constitution of 1973 and this one because in the latter they were talking about steps to adopt a common national language to be known as Filipino. We are already adopting it here. The reason why we are asking for a deletion is that the following sentences seem to make a distinction between a primary and a secondary medium of instruction and communication, whereas Section 2 talks about official languages as both Filipino and English and, therefore, there is an inconsistency there. We are moving for deletion because the adoption of the national language in its full implications is already understood. Secondly, on Section 2 where official languages are mentioned as Tagalog and English, again, the implication of that rule is all-encompassing but there is no distinction between primary and secondary or primary and supplementary because in reality we need both and it is to our advantage to be bilingual. We are now moving for the deletion of those sentences from lines 3 to 10 under Section 1 as proposed by the committee in order to avoid confusion. Since that is on board, and I believe we have had so many speakers already that have spoken on both sides, is it possible to already have a vote?

MR. SUAREZ. Madam President.

MS. AQUINO. Madam President.

THE PRESIDENT. Let us hear Commissioner Suarez first.

MR. SUAREZ. Thank you, Madam President.

May I speak briefly against the motion to delete lines 3 to 10, Madam President. I have read these three lines and I can detect five gut issues involving national language in these three sentences. The first is the matter of determining the medium of communication and this appears on line 4. The second is the matter of language of instruction and this appears on line 5. The third is the matter of auxiliary media of instruction and this appears on line 7; then the matter of a second language and this appears on line 8. Finally, the matter of alternative medium of instruction and this appears on line 9, Madam President.

These are all gut issues that we feel should be ventilated, debated upon and discussed thoroughly before this Constitutional Commission. And it is for this reason that we are appealing to the Members of the Commission to allow a free debate and discussion on these five gut issues, without the formality of going into the deletion of these matters.

We realized the point raised by the Honorable Monsod that perhaps some of these points may already have been covered by the first sentence of Section 1 and the two sentences appearing in Section 2, but this is a matter of appreciation on the part of the Commission. So, we reiterate our appeal that these matters should be discussed and should not be deleted.

Thank you, Madam President.

THE PRESIDENT. Commissioner Suarez, what is going on now is that we are, in fact, discussing the merits of the committee report. I mean in discussing whether we should delete or not, we are, in effect, discussing also the merits of the committee report. That is why we have been allowing speakers to speak for and against.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Madam President, and also for the concern for more debate because, if we do not do that this might become a missed opportunity.

I think we of the committee insist that we retain those specific provisions that steps shall be taken by the government to really implement the essence of the first section. We do this in the same sense that we gave in to the Ople, et al amendment with respect to teachers. For instance, in our own formulation in the committee, we said that the State shall promote and protect the status and standards of the teaching profession. Teachers, researchers and nonteaching academic personnel shall enjoy the special care and protection of the State. That is the spirit that we wanted to be incorporated in the Constitution. But a more concrete proposal was that of Commissioner Ople, et al which says: "THE STATE MUST ASSIGN THE HIGHEST BUDGETARY PRIORITY TO EDUCATION AND ENSURE THAT TEACHING WILL ATTRACT AND RETAIN ITS RIGHTFUL SHARE OF THE BEST AVAILABLE TALENTS. . ."

What we are saying, in fact, is that the first sentence of Section 1 provides us the essence of the provision on the national language. But because of the rather sorry experience that we have had on the development of the national language and more importantly its actual use, we feel that the subsequent sentences are absolutely necessary to put flesh into the intent of the first section.

Let me quote one of the studies given to us by one group which calls itself "Multi-Ethnic Citizens Committee for CON-COM Resolution No. 286" and it lists down what the Institute of National Language as a body has done to develop the national language. In 1940, after five years of the 1935 Constitution, the INL published the *National Language – An English Vocabulary*, and this is pure Tagalog. This was in 1940. Ten years after that, in 1950, and 15 years after the 1935 Constitution, the *National Language – An English Vocabulary* had its fourth printing. It still did not contain any non-Tagalog dialectal words. Ten years again after that, meaning 25 years after the 1935 Constitution, 13,000 copies of the *English-Tagalog Dictionary* was published – still no other languages but Tagalog.

In 1977, after 42 years of the 1935 Constitution and four years of the 1973 Constitution, the *Talahulugang Pilipino-English* was released by the Bureau of Printing. And then, at about the same year, the *English-Tagalog Dictionary* by Fr. Ingles had its first printing and it was approved for use in public and private schools.

In 1985, after 50 years of the 1935 Constitution and 12 years of the 1973 Constitution, the *English-Tagalog* Dictionary by Fr. Ingles had its ninth printing, and the INL gave him a citation for excellence, meaning, in spite of all those proposals and intentions to develop a national language, not much was done. And let me quote what Dr. Bonifacio Sibayan, a linguist and former President of the Philippine Normal College, as well as former President of the Philippine Linguistic Society said:

> Filipinos can handle anything if they will put their minds to it. The trouble is, they really have not done so, for they have practically not invested any money into the development of the language.

We are saying, therefore, that with these sentences after the first sentence, we will be able to accelerate, without violating the laws of growth of a language, the actual use in government, commerce and industry and in education of Filipino as a national language.

Thank you, Madam President.

MS. ROSARIO BRAID. Madam President.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

SUSPENSION OF SESSION

MR. RODRIGO. I move for a suspension of the session considering the lateness of the hour.

THE PRESIDENT. The session is suspended for luncheon until two-thirty this afternoon.

It was 12:41 p.m.

RESUMPTION OF SESSION

At 3:05 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Are we ready to continue with our very interesting debate?

The Acting Floor Leader is recognized.

MR. ROMULO. Madam President, there is a motion to delete parts of Section 1. However, may I request a short suspension because a compromise might be reached.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 3:06 p.m.

RESUMPTION OF SESSION

At 3:18 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. ROMULO. Madam President, I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, before we suspended the session, there was a pending motion to delete. We are happy to inform the Chair that in the meantime we believe we have arrived at a reasonable compromise provision; and I am, therefore, withdrawing the motion to delete.

THE PRESIDENT. May we have the new formulation.

MR. MONSOD. We would like to refer to the committee for the formulation.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. After conferring with the different amendors, the committee came up with the following formulation: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE, THE GOVERNMENT SHALL TAKE STEPS TO INITIATE AND SUSTAIN ITS USE AS A MEDIUM OF OFFICIAL COMMUNICATION AND AS LANGUAGE OF INSTRUCTION IN THE EDUCATIONAL SYSTEM. THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THEIR RESPECTIVE REGIONS."

Madam President, in addition to the committee members, the following contributed to this formulation: The Honorable Ople, Monsod, Colayco, Aquino, Romulo, Rama, Bengzon, Regalado, Tingson, Natividad and Abubakar.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I just inquire from the committee, as a clarification, if this formulation does not exclude the use of English as a medium of communication nor as a language of instruction.

MR. OPLE. Madam President.

MR. MONSOD. May we ask the committee.

MR. VILLACORTA. The committee understands that English may be maintained as a second language.

MR. MONSOD. As in Section 2, since they are both official languages, can we just state that this does not preclude the use of English as a medium of communication and as a language of instruction?

MR. VILLACORTA. In the formulation?

MR. MONSOD. Yes. The formulation does not preclude or exclude the use of English.

MR. VILLACORTA. That is right; it does not preclude the use of English.

MR. MONSOD. Thank you.

MR. OPLE. Madam President.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Yes, just a word concerning the style. This is more a matter of style than anything else. Rather than leave it to Commissioner Rodrigo later, I think I would like to put forward a proposal actually originated by Commissioner Nolledo, so that instead of "ITS USE," we use "FILIPINO." So that it will read: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE, THE GOVERNMENT SHALL TAKE STEPS TO INITIATE AND SUSTAIN THE USE OF FILIPINO AS A MEDIUM OF OFFICIAL COMMUNICATION . . ."

MR. VILLACORTA. Does the Gentleman mean "SHALL TAKE STEPS TO INITIATE AND SUSTAIN FILIPINO AS A . . ."

MR. OPLE. "THE USE OF FILIPINO."

MR. VILLACORTA. Yes, Madam President, the committee accepts.

MR. OPLE. Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. May I suggest to the committee that instead of the words "LANGUAGE OF INSTRUCTION," we use "MEDIUM OF INSTRUCTION" as proposed by Honorable Ople; Filipino as a medium not as a language of instruction.

MR. VILLACORTA. The reason we used the word "LANGUAGE" is that "MEDIUM" had been used before, but allow me to confer with the committee whether they would accept the use of "MEDIUM."

MR. DE CASTRO. So that there will be no double use of "MEDIUM."

MR. VILLACORTA. There will be a double use of "MEDIUM."

MR. DE CASTRO. If we can make certain arrangements in the first use of "MEDIUM" . . .

MR. VILLACORTA. The committee feels that the Committee on Style can take care of that.

MR. DE CASTRO. Thank you.

MR. VILLACORTA. Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I address a few questions to Commissioner Ople who fathered the first two lines.

MR. OPLE. I did not father the first two lines; I had a very modest contribution in the term "SUBJECT TO PROVISIONS OF LAW."

MR. SARMIENTO. May we know from the Gentleman the meaning of "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE" because I think this is the new amendment to the committee's formulation.

MR. OPLE. Yes. I consider the mandate for the use of Filipino as the national language now categorical, both as a medium of official communication and as language of instruction. However, in order to be absolutely sure, the pace at which this mandate will be implemented, together with the budgetary requirements, will be determined more carefully. And in the light of future consensus among the lawmakers, we just say that this is subject to provisions of law and as Congress may deem appropriate.

MR. SARMIENTO. If that is the intent, does not the Gentleman think the first line will suffice?

MR. OPLE. Yes. Those who conferred, including all the members of the committee, as well as the previous proponents of amendments of these lines, came to the conclusion that this is not really redundant at all. Besides, it helps to forge a compromise that will permit this Commission to vote hopefully as one on this amendment which the committee is now putting forward as the collective sense of those who have conferred on this matter.

MR. SARMIENTO. I have nothing against the first two lines. My only reservation is that as in the past, the first line would cover the two, leaving Congress to appropriate budgetary measures.

MR. OPLE. Yes. Of course, we do not disregard existing laws, Madam President. They will continue to govern if they are consistent with this constitutional provision, until Congress in the future amends or changes or repeals some of these laws.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I be enlightened on some of the aspects of this proposed substitute amendment? The first is, does it follow from the wording that the regional languages shall serve as an auxiliary media of instruction and no law can prohibit their use as such? This means that subject to provisions of law and as Congress may deem appropriate, it would refer only to what are included in the first sentence. It will not apply to the second sentence relating to regional languages as auxiliary media of instruction.

MR. TREÑAS. That is correct. Precisely, there is a period after "educational system" and that is a new sentence.

MR. DAVIDE. As an auxiliary medium of instruction, it can actually be the primary medium, until Congress shall provide otherwise.

MR. TREÑAS. It shall be auxiliary.

MR. DAVIDE. But in the meantime that Congress shall not have deemed appropriate or that there is no provision of law relating to the use of Filipino as the medium of instruction, it can itself be the primary medium of instruction in the regions.

MR. TREÑAS. That is correct because of the provision of the first sentence.

MR. DAVIDE. On the supposition that there is already a law that Congress had deemed it appropriate, the regional language shall go hand in hand with Filipino as a medium of instruction. It cannot be supplanted in any way by Filipino as the only medium of instruction in the regional level.

MR. TREÑAS. Yes.

MR. DAVIDE. Thank you for the information.

MR. TRENAS. Because that is a constitutional mandate.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I just want to clarify the statement of Commissioner Davide when he said "Filipino as the only" – I think we have already clarified that it will exist side by side. It does not preclude the use of English, but the regional languages will, in any case, be the auxiliary media of instruction.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. May we seek further clarification on the various statements provoked by the questions and inquiries of Commissioners Davide and Monsod? As it is now formulated, there will be practically three media of instruction: one is Filipino and which I assume is the principal; second would be English as a second official language of instruction, although in an implied manner; and the third which takes the form or character of an auxiliary medium of instruction would be the regional language. Is my understanding correct?

MR. VILLACORTA. Yes.

MR. SUAREZ. And this would apply only to the regions, for example, in Region I. In the Ilocos region, therefore, there will practically be three media of instructions: Filipino, English and Ilocano. Is what I have in mind the idea of the committee?

MR. BENNAGEN. No. May I answer that?

THE PRESIDENT. Commissioner Bennagen may proceed.

MR. BENNAGEN. Something like this can take place from Grade I up to probably Grade IV which is equivalent to the primary level. The regional language may be the primary language and Filipino or English is the auxiliary medium, and at this point English can be taught as a subject in school. And then beyond that as the language develops, the national language can take over, with English still offered as a subject but with some variations. There might be possibilities also where Filipino already becomes the primary language with the regional language as auxiliary and English as a subject, until such time again as the capabilities of the regions or the schools change.

MR. SUAREZ. Madam President, but if that is the sense of the committee, that was not accurately reflected in the wordings of line 2 which reads: "The regional languages shall serve as auxiliary media of instructions." That means there is a principal language and also an auxiliary language; in this case the principal even on the primary level would have to be Filipino. But according to Commissioner Bennagen, it is theoretically possible that from Grades I to IV the principal language of instruction would be the regional language.

MR. BENNAGEN. That would be during the first few years pending the development of a fuller capability, both in terms of technical capability of teachers as well as the availability of instruction materials.

MR. SUAREZ. If that be the case, may we suggest a reformulation of the wording of this last line, because it may be opposed to the committee's thinking. And, secondly, I think it was Commissioner Treñas who said that this is practically self-executory in character. I am referring to the second line on the designation of regional languages as auxiliary media of instruction. Is my understanding correct in that regard or do they need legislation in order to make them auxiliary media of instruction? If we use the word "serve," that connotes something self-executory in character.

MR. TREÑAS. Precisely. Of course, I have not consulted the other members of the committee but that is my interpretation.

MR. SUAREZ. So, will it be immediately enforced or does it need to be developed?

MR. TREÑAS. By law?

MR. SUAREZ. Yes, because the word "serve" connotes something immediately executory whereas the word "develop" does not give the same connotation. May we suggest that the committee review this phrasing.

Thank you.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, may I just say and speak only for myself in this respect. I think there is nothing here to permit any reading that this is not self-executory. We do not say that this will be subject to provisions of law, but we also know in the real world that we cannot just implement this without teachers, books, or the necessary budgets, to be provided at both the local and the State levels so that the regional language as an auxiliary language in that region can become meaningful as a medium of instruction.

I do not know how the committee will take this question, but even if we allow the provision on regional languages, like Cebuano, Ilocano, Waray or even Pampango, to be self-executory, we will need instruction materials and teachers before this can be implemented. I think that is the realistic view of the meaning of the clause "THE REGIONAL LANGUAGES shall serve as auxiliary media of instruction in their RESPECTIVE REGIONS."

Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I am a little disturbed by the interpretations now being given by the committee. I think the wording of the provision is very clear that Filipino will be developed fully as a medium of instruction and communication. And during the interpellation, it was clear that this will not supplant but coexist with English. The reason we are giving this mandate is that we do not want the experience repeated when Filipino was left behind and was never developed as a language. That is the reason we are giving this mandate.

The second point is that I do not think there is anything in this provision that can be interpreted to mean that in regions, the regional language will ever become the primary medium of instruction or the medium of communication and instruction. It will always be an auxiliary to the two – to Filipino and English. I do not think we should read more into it than what it is now. The mandate is very clear, but at the same time I do not think we should put a lot of interpretations that is not in the letter of the provision.

MR. TREÑAS. Madam President, it is precisely the stand of the committee that this should be interpreted as it is worded. In fact, we believe that it is simply worded.

MR. DE LOS REYES. Madam President.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. May I ask the committee some questions, Madam President?

As amended, the provision says that it is only the regional languages that shall not be subject to any changes as provided by law, because it is a separate sentence which says: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THEIR RESPECTIVE REGIONS." There is no "as may be provided by law." The third sentence reads as follows: "English shall be maintained as a second lnguage and as . . ."

MR. TREÑAS. Madam President, that was already deleted.

MR. DE LOS REYES. I see. With regard to the first sentence which says: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE," could we not change that to "SUBJECT TO WHAT CONGRESS MAY DEEM APPROPRIATE"? Let us eliminate the phrase "provisions of law" so that there will be no double statement of "law" and "Congress."

MR. VILLACORTA. The first line, "SUBJECT TO PROVISIONS OF LAW" would also refer to existing laws, rules and regulations, including those with the MECS.

MR. DE LOS REYES. Can we not say "SUBJECT TO SUCH CONDITIONS PRESCRIBED BY LAW"?

MR. OPLE. I have been listening carefully to the nuances of the legal language put forward by the legal luminaries to my left. And since Commissioners de los Reyes and Nolledo have not achieved a meeting of minds, I would prefer to stick by the committee language since the committee has assumed jurisdiction.

MR. VILLACORTA. Madam President, may we ask for a vote on this proposal?

MR. ROMULO. Madam President, we are ready to vote.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Before it is voted upon, may we request for a final reading of the proposal?

MR. VILLACORTA. The proposal reads as follows: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE, THE GOVERNMENT SHALL TAKE STEPS TO INITIATE AND SUSTAIN THE USE OF FILIPINO AS A MEDIUM OF OFFICIAL COMMUNICATION AND AS LANGUAGE OF INSTRUCTION IN THE EDUCATIONAL SYS-

TEM. THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION . . ." We originally said "THEIR" but Commissioner Natividad suggested "IN THE" which the committee accepts. The last words, therefore, are: "IN THE RESPECTIVE REGIONS."

MR. DAVIDE. Madam President, just one clarification. Did I hear it correctly said as "AND AS A LANGUAGE OF INSTRUCTION"?

MR. VILLACORTA. "AND AS LANGUAGE OF INSTRUCTION."

MR. DAVIDE. And as medium of official communication.

THE PRESIDENT. Is Commissioner Padilla seeking recognition?

MR. PADILLA. Madam President, may I suggest that the vote be taken only on the first sentence, because the second sentence may take into consideration Section 2 of the committee report which says:

> The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions.

MR. VILLACORTA. What is the proposal of the Gentleman?

MR. PADILLA. Since the proposed section consists of two sentences, we should first vote on the first sentence because the second sentence may have direct connection with Section 2 of the committee report.

MR. VILLACORTA. So, would the Gentleman want us to vote on the first sentence?

MR. PADILLA. Yes, because as clearly replied by the committee to the questions of Commissioner Suarez, there are three possible languages: First is Filipino but that does not exclude English; neither does it exclude the regional language. In the committee report, Section 2 speaks of Filipino, second English, and third regional languages.

MR. VILLACORTA. Madam President, we accept the proposal to vote only on the first sentence at this time.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Just a matter of clarification. On the first sentence, we use Filipino as an official medium of communication in all branches of government. Is that correct?

MR. VILLACORTA. Yes.

MR. DE CASTRO. And when we speak of Filipino, can it be a combination of Tagalog and the local dialect, and, therefore, can be "Taglish"? Is that right?

MR. VILLACORTA. Not really "Taglish," Madam President.

MR. BENNAGEN. It can be standard.

MR. DE CASTRO. Or the combination of the local language and Tagalog?

MR. VILLACORTA. As it naturally evolves.

MR. DE CASTRO. Suppose I am a Muslim official from Sulu and I will use Filipino in my communication. So I will write: "Di makadiari ang iniisip mo." It is a combination of Tausog – "di makadiari" and Tagalog– "ang iniisip mo." The one receiving in the main office may not understand the whole thing. I am just clarifying because when we use Filipino as a medium of official communication, there is a possibility that the message may not be understood when it reaches the central office or when it goes to another area.

MR. VILLACORTA. That is why the wording is, "The government shall take steps to initiate and sustain the use of Filipino." And in Section 1, it says: "as it evolves, it shall be further developed and enriched," the implication being that it will be standardized as a national language.

MR. DE CASTRO. Yes, but then in Section 2, we come out with Filipino as a medium of official communication. I am just giving an example that as an official communication, it may not be understood by the one at the receiving end, especially if one comes from the South and whose message is received in the North or in the center. As I said, "Di makadiari ang iniisip mo," is half Tausog and half Tagalog.

MR. VILLACORTA. Commissioner Bennagen, who is an expert on culture and minorities, will answer the question of the Gentleman.

MR. BENNAGEN. I think what we envision to happen would be for government agencies, as well as other nongovernmental agencies involving this, to start immediately the work of standardization – expanding the vocabularies, standardizing the spelling and all appropriate measures that have to do with propagating Filipino.

MR. DE CASTRO. In short?

MR. BENNAGEN. The work will codify this national *lingua franca* as it is taking place and will be subjected to other developmental activities.

MR. OPLE. Madam President, may I say a word?

MR. DE CASTRO. In short, does the committee want us to understand that Section 2, even if ratified, will not as yet be effective because it is still subject to the provisions of law and as Congress may deem appropriate? So the medium of official communication among branches of government cannot as yet be Filipino until subject to provisions of law and as Congress may deem appropriate. Is that correct?

MR. OPLE. Madam President.

MR. DE CASTRO. No, I am asking the committee, please.

THE PRESIDENT. What is the answer of the committee?

MR. VILLACORTA. That is correct, Madam President.

MR. DE CASTRO. Thank you.

MR. OPLE. I just wanted to point out that when the words "official communication" is used, this must satisfy the standards of accuracy, precision and, perhaps, clarity or lack of ambiguity; otherwise, it will not be communication. One can lose a war through imprecise communication in government and, therefore, I think the word "communication" should be understood in its correct light – that when one writes from Sulu, as in the example given by Commissioner de Castro, he has to consider the following: Is his communication clear? Is it unambiguous? Is it precise? I just want to point out that when we speak of official communication, these normal standards of good communication ought to be recognized as controlling, otherwise, the interest of public administration will be vitally affected.

Thank you, Madam President.

THE PRESIDENT. Shall we vote now on the first sentence?

MR. RODRIGO. I think it should be on the first two sentences.

THE PRESIDENT. There was a suggestion, and that was accepted by the committee, to vote on the first sentence.

MR. RODRIGO. Only on the first sentence? But there are two sentences.

THE PRESIDENT. No, that was already approved.

MR. VILLACORTA. Madam President, may I ask for a vote now because this has been extensively discussed.

THE PRESIDENT. Will the chairman read what is to be voted upon?

MR. VILLACORTA. Madam President, the first sentence reads: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE, THE GOVERNMENT SHALL TAKE STEPS TO INITIATE AND SUSTAIN THE USE OF FILIPINO AS A MEDIUM OF OFFICIAL COMMUNICATION AND AS LANGUAGE OF INSTRUCTION IN THE EDUCATIONAL SYSTEM."

VOTING

THE PRESIDENT. As many as are in favor of the first sentence, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 37 votes in favor and none against; the first sentence is approved.

MR. VILLACORTA. Shall we vote now on the next sentence, Madam President?

THE PRESIDENT. Will the chairman please read the next sentence.

MR. VILLACORTA. The next sentence, Madam President, reads: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS."

THE PRESIDENT. Commissioner Padilla is recognized before we proceed to vote.

MR. PADILLA. Section 2 of the committee report states:

> The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions.

That second sentence in Section 2 of the committee report may be amended by that second sentence which says: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS." I believe we should consider the first sentence of Section 2 and then say: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS." That is my proposal.

THE PRESIDENT. In other words, the Commissioner's point is that this particular second sentence here should be transposed to Section 2 of the other committee report.

MR. PADILLA. Yes, Madam President.

THE PRESIDENT. What does the committee say?

REV. RIGOS. Madam President, perhaps if we approve the second sentence, we can delete the second sentence in Section 2. Is that the idea?

MR. PADILLA. That is correct.

REV. RIGOS. Since we are talking about medium of instruction here, we would rather retain it in the first section.

MR. PADILLA. Madam President, but if no mention is made of English, it might be the impression contrary to what has already been agreed upon – that English may not be used as a medium of instruction. And it shall be clear that the first preference is Filipino, the national language, without prejudice to the use of English and also the regional languages.

REV. RIGOS. Madam President, do we understand the Commissioner correctly that he would rather delete that in the first section and amend the second sentence in Section 2?

MR. PADILLA. Yes, Madam President. That is the reason I suggested that the proposal be divided into two sentences. We approved the first sentence. The second sentence should be corrected to Section 2 of the committee report.

MR. VILLACORTA. Madam President, the committee is divided; therefore, we would like the floor to decide on this matter.

MR. PADILLA. The only reason I am saying this is to make clear in the Constitution that the medium of communication and the language of instruction are not only Filipino as a national language, and that the medium of instruction is the regional languages, otherwise, there would be no mention of English. I believe that we are all agreed that the first preference is the national language, Filipino, but it does not prevent the use of English and also of the regional languages.

MR. VILLACORTA. Madam President, during the interpellation it was read into the record that the committeee contemplates on English to be maintained as a second language.

MR. PADILLA. That is correct, but if the first sentence of the section which we have approved is followed immediately with regional languages, it may give the impression contrary to the accepted views that English may also be used, not only as a medium of communication but also as a language of instruction.

MR. VILLACORTA. We could not arrive at a consensus in the committee, Madam President, so could we put it to a vote?

MR. RODRIGO. May I ask for a recess, Madam President.

REV. RIGOS. We are still in Section 1, Madam President.

MR. PADILLA. Yes, I am referring now to Section 2 of the committee report, because it covers the same subject matter. I am suggesting that the second sentence of the amendment by substitution or by compromise should be taken together with Section 2 of the committee report.

THE PRESIDENT. So how would the Commissioner formulate? Will he delete this and transfer it to Section 2?

MR. PADILLA. Yes, Madam President. In lieu of the second sentence of the committee report, "The regional languages are the auxiliary official languages in the respective regions," we can substitute that with the second sentence of the compromised amendment, which reads: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS."

MR. TREÑAS. They are together; they are correlated.

MR. VILLACORTA. Madam President, may we ask for a vote on this matter.

SUSPENSION OF SESSION

MR. RODRIGO. I am not ready to vote. May I ask for a suspension, Madam President?

THE PRESIDENT. The session is suspended.

It was 3:58 p.m.

RESUMPTION OF SESSION

At 4:39 p.m., the session was resumed with the Honorable Adolfo S. Azcuna presiding.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

The Acting Floor Leader is recognized.

MR. ROMULO. Mr. Presiding Officer, I ask that Commissioner Monsod be recognized for Section 2.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Monsod is recognized.

MR. MONSOD. Perhaps we should first ask the committee if they have already agreed to the transposition of that sentence.

MR. VILLACORTA. Yes, I was going to say that Section 2 will now read: "The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions AND SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION THEREIN." This was formulated in cooperation with Commissioners Suarez, Padilla and Maambong.

MR. MONSOD. Mr. Presiding Officer, may I propose an anterior amendment before we take up the entire section?

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

MR. MONSOD. I would like to propose that in the first sentence we insert the words, "FOR PURPOSES OF COMMUNICATION AND INSTRUCTION" between the words "Philippines" and "are" so that it will now read: "The official languages of the Philippines, FOR PURPOSES OF COMMUNICATION AND INSTRUCTION, are Filipino and English, until otherwise provided by law." May I explain?

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

MR. MONSOD. We are mentioning this in order to reflect the intent and answers of the committee in Section 1. Since we are now mentioning regional languages as an auxiliary official language and in the context of a medium of instruction, it is better to clarify that until otherwise provided by law both Filipino and English are recognized as media of instruction and communication which is what the committee gave in answer to the clarificatory questions on Section 1.

MR. VILLACORTA. Mr. Presiding Officer, the committee regrets that it cannot accept the amendment and would like to ask for a vote on that proposed amendment.

THE PRESIDING OFFICER (Mr. Azcuna). What does Commissioner Monsod say?

MR. VILLACORTA. The reason the committee is not accepting it is that it actually delimits the concept of official language, and number two, it has already been made clear that English will continue to be a second language and there is no necessity for making it much clearer in the Constitution.

MR. MONSOD. As a matter of fact, the reason I am proposing this is precisely because there seems to have been some doubt as to the role of English until after we had to clarify. Secondly, I do not know if there is any other purpose than communication and instruction. So, when we say "for purpose of communication and instruction," then we are removing any confusion and doubt and anybody who reads our Constitution immediately sees the intent of the Constitution and does not need to look into the Journal.

MR. VILLACORTA. Mr. Presiding Officer, the other reason we feel this is not necessary is that in our society now, what needs greater protection and more constitutionalization is not English but Filipino which is in a very weak state right now. English can fend for itself. If I may quote from my favorite saint, San Francisco Rodrigo, in his poem, *"Daig sa Wikang Banyaga"*:

Hindi tayo daig ng kanong banyaga
sa isip, talino, sa kuro sa diwa.
Daig lamang tayo sa pagsasalita,
pagkat gamit natin ay kanilang wika.
Naging sanhi ito ng maling akala
na sila'y dakila at tayo ay aba.

I think that poem of Senator Rodrigo reflects quite vividly and accurately the status of languages in our country today – na ang aba at kawawa ay ang Filipino at ang higit na dakila ay ang Ingles. Why will we further reenforce this colonial aspect of our society?

MR. MONSOD. Mr. Presiding Officer, I believe that is precisely why the whole of Section 1 is a very categorical adoption of Filipino and its fruition and development and the mandate that it be propagated. So, all of Section 1 is already a reflection of the sentiment of this Commission. We just want to eliminate the doubt in Section 2 as to the role of both. That is all, Mr. Presiding Officer. We submit for a vote.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. May I just find out from Commissioner Monsod whether in proposing this amendment he was making up for the loss of the sentence pertaining to English as a second language in the preceding section?

MR. MONSOD. Mr. Presiding Officer, I was for deleting that in the first section, because precisely we want to emphasize the adoption and development of Filipino.

MR. OPLE. My recollection was that the committee did not initiate the deletion of that sentence. The deletion was proposed by Commissioner Monsod himself.

MR. MONSOD. Yes, in order to concentrate on Filipino in the first section. But it is in the second section, which we know is a follow-up section, where we should remove the doubt as to the role of both Filipino and English.

MR. OPLE. What is the consequence of not acting on Commissioner Monsod's amendment so that Filipino and English are here acknowledged in this new section as the official languages, unless otherwise provided by law?

MR. MONSOD. The consequence is that there could be some doubt because of our strong endorsement in Section 1 on the role of English. When we also follow it up with a sentence on regional languages as auxiliary media of instruction, somehow in the structure of the two sections, there is some loss as to the role of English. That is why I am trying to make this clearer.

MR. OPLE. So, the whole intention of the amendment is to make explicit what has been identified as the sense of the Commission with respect to the role of English as a second language which was dropped in the first section.

MR. MONSOD. Yes.

MR. OPLE. Thank you, Mr. Presiding Officer, for the clarification.

THE PRESIDING OFFICER (Mr. Azcuna). We will now proceed to vote.

MS. QUESADA. Not yet, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Quesada is recognized.

MS. QUESADA. I think the position of the committee is really to stress the fact that English is going to be the alternative medium of instruction. That was the deleted provision. We believe that as long as we retain English as another medium of instruction, there will still be the possibility of utilizing materials which are written in English, and which will actually hinder the development of our own educational materials. So, we felt that the formulation that we have in Section 1 could be retained as is and reinforced in Section 2, citing that the official languages of the Philippines for purposes of communication and instruction be still written down in this particular section.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair recognizes Commissioner Rodrigo.

MR. RODRIGO. Would Commissioner Monsod accept an amendment to his amendment so that Section 2 would read: "The official languages of the Philippines are Filipino and English, BOTH OF WHICH SHALL BE MEDIA OF INSTRUCTION, until otherwise provided by law."

MR. MONSOD. Yes. I accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Monsod is recognized.

MR. MONSOD. I am a little confused as to the response of Commissioner Quesada because that is not the sense and the tenor of the answers of the committee earlier this afternoon. If I hear her correctly, she is saying that there should be a stoppage of the use of materials in English. That was not the answer of the committee earlier this morning, and perhaps it is better for us really to clarify it then in this section rather than have the different interpretations we are getting from the committee.

MS. QUESADA. I think I did not say that there will be a stoppage but that there will be the encouragement of the development of materials written in Filipino, if we are going to really use Filipino as the medium of instruction in our educational system. As long as we retain all these materials without developing the Filipino materials, then I think we will not really progress.

MR. MONSOD. I am confused because we have just heard it said "as the medium of instruction"; I thought that we said as "language of instruction" without the word "the." So, I am a little confused and perhaps that is the reason we need to clarify this point once and for all.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rodrigo is recognized.

MR. RODRIGO. I have an amendment to the amendment which was accepted by the proponent. I think it is a very simple amendment; I ask that we vote on that.

REV. RIGOS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rigos is recognized.

REV. RIGOS. The trouble with the proposed amendment is that we repeat in Section 2 what we have already said in Section 1, that Filipino is a medium of instruction.

MR. MONSOD. Mr. Presiding Officer, may I just answer that? I think in Section 1, we are talking of Filipino as a medium of communication and language of instruction in the context of the steps that must be taken to initiate and sustain it. That is how we are mentioning it in Section 1. It is a mandate in effect to Congress to take steps to initiate and sustain it as a medium of communication, as language of instruction. Section 2 merely reiterates the coexisting role of both as media of communication and instruction.

MR. VILLACORTA. May we call for a vote, Mr. Presiding Officer?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is recognized.

MR. DAVIDE. May I propound some questions on the basis of the amendment, as amended? As amended, it will read that the official languages are Filipino and English, both of which shall be the official language of communication and the medium of instruction in all the educational system. Am I correct?

MR. RODRIGO. No, both of which shall be media of instruction.

MR. DAVIDE. And the language of communication.

MR. RODRIGO. And Commissioner Monsod wants to add that both shall be media of communication and instruction, unless otherwise provided by law.

MR. DAVIDE. Would that not run counter to what had just been approved? I am referring to the Ople, et al amendment which reads: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE, THE GOVERNMENT SHALL TAKE STEPS TO INITIATE AND SUSTAIN THE USE OF FILIPINO AS A MEDIUM OF OFFICIAL COMMUNICATION AND AS LANGUAGE OF INSTRUCTION IN THE EDUCATIONAL SYSTEM."

MR. MONSOD. Mr. Presiding Officer, may I answer that question? In reply to Commissioner Rigos, that clause "as provided by law and Congress may deem otherwise," refers to the government taking steps precisely because "Filipino" has been disadvantaged. So we are mandating Congress to take steps so that it can be initiated and sustained as a medium of communication and as language of instruction. So there is no inconsistency, Mr. Presiding Officer.

MR. DAVIDE. There is an obvious inconsistency because in the first we only would mandate Congress to take steps to initiate and sustain the use of Filipino as a language of official communication and as a medium of instruction. And then in the succeeding section, we immediately mandate that not only shall it serve as one of the two official languages but it shall also be the language of communication and medium of instruction.

MR. MONSOD. Yes, because the committee, in reply to questions on Section 1, precisely said that the steps to be taken do not preclude English as a medium of communication and as a language of instruction.

MR. DAVIDE. No, I am not talking about English. I am talking about Filipino because the official languages would be Filipino and English. But under the Gentleman's amendment, both Filipino and English, unless otherwise provided by law, shall be the languages of official communication and the media of instruction. Yet, in the preceding section, we only mandate the government to take steps to initiate and sustain the use of Filipino as a language of communication and as a medium of instruction. So insofar as Filipino is concerned, there is an obvious and apparent inconsistency.

MR. MONSOD. As I see it, the inconsistency arises from the use of "until otherwise provided by law" which was there in the first place. My amendment is only to clarify the coexistent roles of the two. So if the Gentleman's objection is to the phrase "until otherwise provided by law," that is in the original formulation of the committee.

MR. DAVIDE. That is precisely the reason why if we merge English and Filipino, insofar as the latter is concerned, it would be inconsistent with what we have just approved. I am referring to the Ople amendment; probably we could limit it to English.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. I am in a quandary as to how to vote on this issue, Mr. Presiding Officer. So may I have the leave of an impatient Commission to ask just one more question before we take a vote?

THE PRESIDING OFFICER (Mr. Azcuna). The Commissioner is recognized.

MR. OPLE. What bothers me, and maybe a few others associated with the first amendment in Section 1, is that after giving Filipino the pride of place in the preceding section, are we now establishing a symmetry for Filipino and English in the subsequent section?

MR. MONSOD. No, Mr. Presiding Officer, I think the intent is quite clear. I was wondering whether Commissioner Romulo was suggesting a transposition in order to obviate the possible misinterpretation being raised by Commissioner Davide. We can say that the official languages of the Philippines are Filipino and English until otherwise provided by law. And then, we can have a second sentence which says: "English shall be maintained as a medium of communication and instruction, until otherwise provided by law." That will make it clearer so that English is the only one that is subject to the provision of law and not Filipino. Does that answer the Gentleman?

MR. OPLE. Mr. Presiding Officer, in that formulation, there is no symmetry because Filipino still ranks higher than English. Is that correct?

MR. MONSOD. Yes, because that is the intent and the letter of Section 1.

MR. OPLE. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rodrigo is recognized.

MR. RODRIGO. Mr. Presiding Officer, I withdraw my amendment to the amendment to give way to that new amendment.

THE PRESIDING OFFICER (Mr. Azcuna). Will Commissioner Monsod please restate the latest permutation to his amendment?

MR. MONSOD. My amendment now in Section 2 is to insert the sentence: "ENGLISH SHALL BE MAINTAINED AS A MEDIUM OF COMMUNICATION AND INSTRUCTION, UNTIL OTHERWISE PROVIDED BY LAW."

THE PRESIDING OFFICER (Mr. Azcuna). What does the committee say?

SUSPENSION OF SESSION

MR. VILLACORTA. Mr. Presiding Officer, may we call for a two-minute suspension for harmonization?

THE PRESIDING OFFICER (Mr. Azcuna). The session is suspended.

It was 5:00 p.m.

RESUMPTION OF SESSION

At 5:05 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

Commissioner Monsod is recognized.

MR. MONSOD. There has been a suggestion for a reformulation and I still think that we should retain the committee formulation and add at the beginning: "FOR PURPOSES OF COMMUNICATION AND INSTRUCTION, THE OFFICIAL LANGUAGES OF THE PHILIPPINES ARE FILIPINO AND ENGLISH, UNTIL OTHERWISE PROVIDED BY LAW." In other words, if we keep the original committee formulation and just add the phrase at the beginning, then the intent will remain the same.

THE PRESIDING OFFICER (Mr. Azcuna). What does the committee say?

MR. VILLACORTA. Mr. Presiding Officer, there was during the recess a proposed formulation which the committee is going to adopt, based on the Azcuna proposal which reads: "FOR PURPOSES OF COMMUNICATION AND INSTRUCTION, THE OFFICIAL LANGUAGES OF THE PHILIPPINES ARE FILIPINO, UNTIL OTHERWISE PROVIDED BY LAW, ENGLISH." I understand that Commissioner Monsod is agreeable to this proposal.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is recognized.

MR. DAVIDE. Mr. Presiding Officer, may I inquire on certain matters?

First, with regard to the phrase "for purposes of communication and instruction." How does it relate to the preceding paragraph where we use the words, "language of official communication and medium of instruction"?

MR. VILLACORTA. That reflects the intention of the first section.

MR. DAVIDE. So the intention would be practically the same as the previous. It will not solve the problem I raised; insofar as Filipino is concerned, it will still be inconsistent with the first.

MR. VILLACORTA. Could the Gentleman restate the problem that he raised?

MR. DAVIDE. The problem is, it would now appear that both Filipino and English are the languages of official communication and the media of instruction, but yet in the first, the Ople amendment, it will not be so – I am referring to Filipino – until Congress shall provide otherwise and deem appropriate, the government has taken steps to initiate and sustain the use of Filipino as such. That is the reason I suggested that we should split – the Monsod amendment should refer more specifically to English. So I agreed with the formulation presented by Commissioner Ople by way of an amendment to the Rodrigo amendment which was withdrawn by virtue of the former.

MR. VILLACORTA. Commissioner Nolledo would like to give his opinion on this matter.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

I do not find any inconsistency, because if we look at the first and the second parts, the first part also subjects the development of Filipino as national language to the existing provisions of the law or to the will of Congress. Here we are making it clear that we consider Filipino as an official language, but we cannot deny that at present English is still being used as a medium of instruction.

That is why we separated English from Filipino, in the sense that we put the words "UNTIL OTHERWISE PROVIDED BY LAW, ENGLISH." So, there is some sort of transitional character but both sentences, Mr. Presiding Officer and members of the committee, are consistent with each other.

MR. TREÑAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Treñas is recognized.

MR. TREÑAS. Mr. Presiding Officer, we adopt and echo the arguments of Commissioner Nolledo that there is no inconsistency between the formulation of Section 1, which we have already approved, and the formulation of Section 2 as proposed by Commissioner Monsod.

MR. MONSOD. Which one, Mr. Presiding Officer?

MR. TREÑAS. The last as formulated by Commissioner Azcuna and stated just now by the chairman of our committee.

THE PRESIDING OFFICER (Mr. Azcuna). The committee has accepted, as counterproposal, Commissioner Monsod's proposed amendment to read as follows: "FOR PURPOSES OF COMMUNICATION AND INSTRUCTION, THE OFFICIAL LANGUAGES OF THE PHILIPPINES ARE FILIPINO AND, UNTIL OTHERWISE PROVIDED BY LAW, ENGLISH." Is Commissioner Monsod agreeable to such counterproposal of the committee?

MR. MONSOD. The problem is that it does not sound like correct English, but may we leave it to the Committee on Style?

MR. VILLACORTA. Yes.

THE PRESIDING OFFICER (Mr. Azcuna). We can vote on that.

MR. VILLACORTA. Mr. Presiding Officer, may we ask for a vote on this matter because discussions are overextended?

MR. MONSOD. With the instruction to the Committee on Style, I am accepting the proposal of the committee.

VOTING

THE PRESIDING OFFICER (Mr. Azcuna). So, let us now vote on the amendment as proposed and accepted by the committee which reads: "FOR PURPOSES OF COMMUNICATION AND INSTRUCTION, THE OFFICIAL LANGUAGES OF THE PHILIPPINES ARE FILIPINO AND, UNTIL OTHERWISE PROVIDED BY LAW, ENGLISH."

As many as are in favor of the proposal, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 38 votes in favor and none against; the proposal is approved. It is hereby referred to the Committee on Style.

MR. ROMULO. Mr. Presiding Officer, we should now vote on the Padilla amendment which the committee has accepted, the second sentence of Section 2.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The chairman is recognized.

MR. VILLACORTA. May I read the formulation which was the contribution of Commissioners Suarez, Padilla and Maambong. This would be the second sentence of Section 2: "THE REGIONAL LANGUAGES ARE THE AUXILIARY OFFICIAL LANGUAGES IN THEIR RESPECTIVE REGIONS AND SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION THEREIN."

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection to this amendment of Commissioner Padilla, which was accepted by the committee?

Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, I thought the first line should read "IN THE REGIONS." not "THEIR RESPECTIVE REGIONS."

MR. VILLACORTA. "IN THE REGIONS," is accepted.

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection? Shall we take a vote on this?

MR. VILLACORTA. There is no objection, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Azcuna). As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 37 votes in favor and none against; the amendment is approved.

The Acting Floor Leader is recognized.

MR. ROMULO. I ask that Commissioner Rodrigo be recognized.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rodrigo is recognized.

MR. ROMULO. Mr. Presiding Officer, I submit this amendment on behalf of Commissioner Ople and myself: a third sentence to be added to Section 2, which will read: "THE GOVERNMENT SHALL PROMOTE SPANISH AS A HISTORICAL LEGACY ON A VOLUNTARY AND OPTIONAL BASIS."

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). May we ask the committee to comment first?

MR. GUINGONA. May I be allowed to ask a few questions?

Would this proposed amendment restrict or prohibit the government, Congress, the Ministry of Education, Culture and Sports, any official, agency or body, to compel the teaching of Spanish in educational institutions?

MR. RODRIGO. No, it will not.

MR. GUINGONA. No, it will not prohibit?

MR. RODRIGO. It will not.

MR. GUINGONA. Therefore, the government can still require the compulsory teaching of Spanish?

MR. RODRIGO. Yes.

MR. GUINGONA. I see.

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair recognizes Commissioner Tingson.

MR. TINGSON. Thank you, Mr. Presiding Officer.

May I just say a word to add to the record or, at least if I will be allowed, to say something in favor of this amendment. Am I allowed, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Azcuna). Please proceed.

MR. TINGSON. Mr. Presiding Officer, I rise in defense of Spanish not because I prefer *la lengua Española* to our very own which we now call Filipino, nor would I subordinate our native tongue to English. After all, Filipino will always be the language of our hearts. But we cannot ignore, Mr. Presiding Officer, our historical legacy which inextricably includes the Spanish language. Jose Rizal studied with Spanish as a medium of instruction. *El Filibusterismo* and *Noli Me Tangere* were originally penned in Spanish. Our historical accounts regarding our country and our people were written mostly in Spanish.

Mr. Presiding Officer, while it is true that Spanish as a language is no longer be gainsaid, however, that Spanish is still very much an integral part of our national spirit. Our Constitution perforce must also be translated into Spanish because inevitably copies of our Charter will find their way into the libraries of Spanish-speaking nations, like Spain and the South American countries. Also, let us not forget that Spanish is number two among the living languages of the world.

Mr. Presiding Officer, let us not ignore Spanish completely. *Vamos a traducir a nuestra trabaja* – our new Constitution – into this beautiful language and, therefore, honor our historical legacy.

Thank you very much.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Alonto is recognized.

MR. ALONTO. Mr. Presiding Officer, I am also in favor of the amendment, but I wonder if the distinguished proponent will accept an amendment to this amendment.

THE PRESIDING OFFICER (Mr. Azcuna). He may do so, if he so desires. Commissioner Rodrigo is the proponent.

MR. ALONTO. My amendment is very simple and it is only for the purpose of straightening and correctly stating what must be the languages which can be considered a historical legacy of this country. Mr. Presiding Officer, I would like to amend the amendment to include Arabic and Malay, and I would like to request that I be granted the chance to explain why.

THE PRESIDING OFFICER (Mr. Azcuna). What does Commissioner Rodrigo say?

MR. RODRIGO. Mr. Presiding Officer, I am not in a position to accept or to reject because I am not sufficiently acquainted with Arabic and Malay; or on how many regions speak these in the Philippines; or if we should consider them at par with other regional languages like Cebuano, Ilocano, Bicolano. Should we consider Arabic or Malay of a higher category? And so, I am not in a position to either accept or reject. So, I would like to leave it to the body after Commissioner Alonto shall have explained the reason for his amendment.

MR. ALONTO. Yes, thank you.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Alonto has the floor.

MR. ALONTO. Mr. Presiding Officer, we are talking about languages which we would like to adopt as our historical legacy. I understand by this that we are trying to recognize and put on record those languages that have influenced not only the development of the local languages in this country, but also those that have influenced profoundly the development of culture and civilization of the Filipino people.

Mr. Presiding Officer, I would like to put on record that the basic language or the basic culture that has influenced the progress and culture of the Filipino people is Malay. Malay is a language of a group of people belonging to the Malayo-Polynesian race of which all the different sectors and tribes of this country belong. The Malay language is utilized by Indonesia and Malaysia as the basis of their official languages and the basis of the official language which is now called Bahasa Indonesian and Bahasa Malaysian, because Malay, one of the hundreds of languages belonging to the Malayo-Polynesian race, is the most developed among all the different languages. This is reflected, even in the languages of this country. For example, the word "nasi" in Pampango is a pure Malay word which means rice.

The first foreign language that came to the Philippine shore and which has greatly influenced the development not only of our languages, but even our civilization and culture, was Arabic. It came to the shores of this country more than 600 years ago. A proof of how the Arabic language has influenced the development of our culture and civilization is the use of the Tagalog words of respect "ate" and "kuya" – "ate" means an elder sister; "kuya" means an elder brother – both words are derivative of the Arabic words "okhte" and "akhuya" which mean "sister" and "brother," respectively.

Of course, together with Arabic, Malay and Spanish, these are the three languages that have profoundly influenced not only the development of languages in this country but also the civilization and culture of this country. And so this is the reason I am trying to present this amendment to the amendment of the distinguished Commissioner.

MR. VILLACORTA. Mr. Presiding Officer, may the committee react?

THE PRESIDING OFFICER (Mr. Azcuna). Before we recognize the committee for its reaction, the Chair would like to ask Commissioner Ople what his pleasure is.

MR. OPLE. Mr. Presiding Officer, I suppose I now speak on behalf of Commissioner Rodrigo and myself. We do accept the merit of Commissioner Alonto's proposal to recognize the historic relevance of Arabic and Malay though perhaps on a separate level of importance to the Filipino people. The tendency of the proponents, however, is to counterpropose to Commissioner Alonto a separate sentence which can be located under Section 2 or under Section 3, and which will merely say that other languages of historic relevance to the Filipino people, such as Arabic and Malay, may be developed and promoted as optional languages in appropriate regions. I think the reason for this is very clear. Spanish is a national legacy, and although there are fewer people who speak it today than before, they are extensively distributed throughout the country.

In the case of Malay, let us admit that this is one of the paramount languages in the so-called Malayo-Indonesian family of languages and a close kin to our own languages. I will, however, stop short of agreeing with Commissioner Alonto that Malay has reached the highest stage of development among the members of the so-called Austrenesian or Malayo-Polynesian family of languages because our own national language can aspire to that eminence now in the entire region. Will Commissioner Alonto, therefore, consider later on, having this concept embodied in another sentence so that we can provide for it but on an optional basis, and to be promoted as optional language in appropriate regions?

MR. ALONTO. I understand that even the use of Spanish is to be on an optional basis. That is the reason why I amended it. If, for example, Spanish is to be imposed on a mandatory basis, I do not see the reason why we cannot also classify Arabic in the same manner, because Arabic, in the first place, is now an accepted international language in the United Nations.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair finds this in the nature of a third degree proposed amendment; so before we go any further, the Chair would like to recognize the chairman for his reaction which may clarify these points.

MR. VILLACORTA. Mr. Presiding Officer, with respect to the proposal of the Honorable Alonto, the committee recognizes the importance of Arabic. Since we are talking here about historic legacy, we should really include Arabic for symmetry. However, the committee regrets that it cannot accept the inclusion of Malay which is a foreign language.

It is true, that our immediate neighbors have Malay as the national language, both in Bahasa Indonesia and Bahasa Malaysia, but at the same time, it might clutter the provision. We are willing to accept Arabic because Arabic has a very important historic place in our country and in our culture. Spanish was the predominant language for so long during several centuries of colonization but, at the same time, Arabic remained paramount, particularly among the leaders of the unconquered sections of the country in Mindanao.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair would like to inquire from the chairman of the committee whether the committee is accepting Commissioner Rodrigo's main amendment; otherwise, it would be in no position to accept amendments to the amendments thereto.

MR. VILLACORTA. Mr. Presiding Officer, the committee is accepting the Rodrigo and Ople amendments and at the same time the amendment of Commissioner Alonto with respect to the inclusion of Arabic for symmetry.

MR. ALONTO. Thank you, Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. OPLE. I move that we suspend the session so that we can confer with the committee and with Commissioner Alonto.

THE PRESIDING OFFICER (Mr. Azcuna). The session is suspended.

It was 5:32 p.m.

RESUMPTION OF SESSION

At 5:56 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Azcuna). The session is resumed.

MR. VILLACORTA. Mr. Presiding Officer, the committee, after meeting with the main proponents, is accepting the following reformulation of the second sentence of Section 2: "THE STATE SHALL PROMOTE SPANISH AND ARABIC ON A VOLUNTARY AND OPTIONAL BASIS." This is acceptable to all the proponents.

May we have a vote on this provision, Madam President.

THE PRESIDING OFFICER (Mr. Azcuna). Before we do that, the Chair would like to recognize Commissioner Aquino.

MS. AQUINO. Thank you, Mr. Presiding Officer.

With due respect to our esteemed colleagues, Commissioner Rodrigo, I will have to take exception to the position of the proponent. And this time, I will invoke the hackneyed objection that we use in court, that the proposal lacks basis.

In the original proposal, the proponent invoked historical legacy as the basis for a mandate for the State to promote Spanish. But what historical legacy do we speak of? To the best of my recollection, the only historical legacy that we can derive from the Spaniards is the history of exploitation and oppression. Do we have to dignify that by giving it an imprint of a constitutional fiat? We are not prohibited, in the first place, to adopt Spanish as a voluntary or optional course in schools, but must we provide for that in the Constitution?

In the second place, Mr. Presiding Officer, we do not speak of a Spanish culture in the Philippines. It may be our loss, but the fact is that the absence of a Spanish culture militates against the facility with which the Filipinos could assimilate Spanish as a language. And, in fact, it is the single strongest obstacle for Spanish capturing the popular imagination and the popular consciousness. We had been exposed to 24 units of Spanish and I, myself, had a great deal of difficulty in even conjugating the basic verbs in Spanish.

The absence of a Spanish culture necessarily denies Spanish the very bedrock within which it could flourish, and it is not up for us to answer that kind of a problem or to even apologize for that kind of a difficulty by providing for that in the Constitution.

There is another factor that militates against Spanish being imbibed in the Filipino culture. Spanish has been known to be the language of exploitation. That is the single, the strongest mental block that has become a powerful complex in the continued and subconscious resistance of the Filipinos to understanding and imbibing Spanish as a language.

Spanish has always been associated with the *amos* of the past or the *señor pastas* who live in the illusory sanctuary of Forbes Park. It was associated with the language of the Filipino acolytes of the Spanish *conquistadores* during the Spanish colonial period.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Padilla is recognized.

MR. PADILLA. Mr. Presiding Officer, *quisiera hablar a favor y en apoyo de las sugerencia enmienda de los Señores Rodrigo y Ople yanotiendo a las manifestaciones del Señor Tingson, de los escritos de nuestros padres, particularmente las novelas inmortales de nuestro hero nacional* Noli Me Tangere *y* El Filibusterismo *y otras poesias de mucho valor patriotico como "Mi Ultimo Adios" y "Mi Retiro."*

Quisiera anadir, que de los legados historicos de nuestra Madre España, son nuestra Codigo Civil y Codigo Penal, que estan pasados en los codigos de España. Si nuestros estudiantes de derecho puedan leer y comprender la lengua Española y los escritos y comentarios de los autores Españoles como Manresa en Codigo Civil y Viada en Codigo Penal, nuestros abogados en derecho civil y derecho penal seran mejores preparados y por eso, pido que la Comision apoye la enmienda en favor de la lengua Española. Muchas gracias.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair recognizes Commissioner Quesada.

MS. QUESADA. Mr. Presiding Officer, prejudicial question. Could we ask the Honorable Padilla to please translate in Filipino what he has just said, because there are many of us barbarians who did not understand at all a single word that he said? I think it is but right that we be privy to it in Filipino.

MR. RODRIGO. Mr. Presiding Officer, ako na po ang magsasalin sa wikang Pilipino.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair recognizes Commissioner Rodrigo, with the indulgence of Commissioner Quesada.

MR. RODRIGO. Nais ba ng Komisyonado na ngayon o pagkatapos na ng sesyon ang pagsasalin ko sa wikang Pilipino?

MS. QUESADA. Mr. Presiding Officer, because we feel alienated by the fact that a foreign tongue was used in our session.

MR. RODRIGO. Opo, pagbibigyan ko si Komisyonado Quesada.

Sinabi po ni Komisyonado Padilla na marami naman tayong mga benepisyo galing sa Espanya, halimbawa, ang ating Kodigo Sibil at Kodigo Penal. At ang sabi niya, iyong mga sinulat ng ating mga bayani, ang dalawang nobela ni Dr. Jose Rizal, *Noli Me Tangere* at *El Filibusterismo,* ay nasa wikang Kastila, pati na iyong "Mi Ultimo Adios" ni Jose Rizal at ang kanyang iba pang poesia.

At sinabi rin niya na kung ang lahat ng mga abogado ay marunong ng Kastila, makatutulong ito ng malaki sapagkat ang mga libro ng mga komentarista sa Kodigo Sibil tulad ni Manresa at sa Kodigo Penal tulad ni Viada, ay nasa wikang Kastila rin. Kaya sinabi niya na siya ay kumakatig sa panukalang susog ni Komisyonado Ople at ng inyong lingkod at hinihiling niya na sana ay maaprubahan ng Kapulungang ito.

MS. QUESADA. Maraming salamat po, Komisyonado Rodrigo.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. Thank you very much.

I just want to take the opportunity to comment briefly on the powerful objections of Commissioner Felicitas Aquino to the so-called "Rodrigo-Ople Amendment" on historical grounds.

I do not think anybody can deny, and no one intends to dispute, the allegation that the 350 years of Spanish colonialism over this territory now known as the Republic of the Philippines was ruthless, oppressive and, in many ways, exploitative. At the same time, a good part of the world had gone through this ordeal of colonialism. I think discriminating between Spanish and American colonialisms is probably open to question, in the sense that both were colonialisms. But in one case, the Spaniards denied us deliberately the gift of their beautiful and powerful language which, incidentally, derives a lot from Arabic.

We will recall Rizal's famous letter to the women of Malolos. Why did Rizal write to the women of Malolos? To congratulate them, because a group had the goal to establish a school to teach Spanish, over the objections of the local Spanish commanders and the priests. For Jose Rizal, the teaching of Spanish at that time was an act of courage and patriotism. That was the reason he wrote that letter to the women of Malolos.

In the case of the Americans, they were more sophisticated and, in some ways, projected a sort of altruism that, save for the Spanish missionaries in the earlier part of the Spanish regime, our ancestors never experienced in the hands of Spain. But the padding on the chain was still there. And I could fault my good friend, Commissioner Aquino, for having lavished her bile on Spanish colonialism and apparently spare the American colonialism from any odium of history. Both are legacies.

But I think today, the tendency when we look back is to say that those were crimes of the times; they occurred long ago. There were certain trade-offs; we owe our territorial integrity to Spain and the United States by virtue of the 1898 Treaty of Paris. We were just a string of human settlements before. The most advanced social structure was in Jolo where a sultanate existed. Even in Manila, we were trying at that time to set up a confederation of villages. So there are blessings to count as well. I think no one can deny that a good part of our historical archives is still in Spanish.

Mr. Presiding Officer, I do not have a drop of Spanish blood in my veins. I do not speak Spanish. I consider myself a pure Malay-type Filipino. My ancestors were oppressed by Spanish-speaking landlords in Bulacan. But why should I dwell on those? All I know is that, historically, we have been gifted with the Spanish language, although it is disappearing now. But it is also an emergent world language. By the year 2000 about 20 countries in Latin America will rise to the level of the OECB to become industrialized. And when we speak of the Pacific centry, there are some countries in Latin America, on the Pacific rim, with which the future generation can engage in mutually profitable and lucrative international trade, and knowledge of Spanish will help. Of Arabic, all I can say is that this is also an emergent world language and it is now one of the official languages of the United Nations. I think at this time we want to forge permanent bonds of unity with Muslim Mindanao and we have already enshrined the noble sentiment of our Muslim brothers by granting them regional autonomy in the Article on Local Governments. I think we cannot stop there and spurn the earnest appeal of Commissioner Alonto on behalf of our Muslim brothers. Once more, let us demonstrate that we are sensitive to their own historical development and their legacy especially in terms of promoting Arabic. About Malay, I think we have agreed that there is no ground to include it in the bracket of Spanish and

Arabic. So I just want to unburden myself of these feelings in reply to the points made by Commissioner Aquino.

Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Floor Leader is recognized.

MR. RAMA. I think the argument of Commissioner Aquino should not be left unanswered in this Commission. I believe that her argument against the Spanish language is emotional. She said, for instance, that Spanish is a legacy of the Spaniards during their oppressive regime. If we follow the argument of Commissioner Aquino, we should also reject the Catholic religion because that is the biggest legacy we got from the Spaniards. So I maintain that we should separate those Spanish rascals who oppressed us from the good things that the Spaniards brought here, like the Spanish language which is a beautiful and neutral language and it is now the second language in the world. I also recall that Senator Recto, who is more nationalist than Commissioner Aquino, was urging the study of Spanish as a historical legacy of the Philippines.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Aquino is given the chance to reply.

MS. AQUINO. I do not lay claim to being a self-proclaimed nationalist; neither do I lay claim to being a self-proclaimed archangel of Filipino or Tagalog. But just a brief rejoinder to Commissioner Padilla. I appreciate fully the lessons, the salutary effects of *El Filibusterismo* and *Noli Me Tangere*. But I do not have to speak Greek to be able to know and understand Homer or Sophocles; I do not have to speak Latin to be able to know and understand Virgil or Horace; I do not have to speak German to know and understand Thomas Mann; and I do not have to learn French to know and understand Camus or Proust. When I said that we do not speak of a Spanish culture in the Philippines, I mean we we cannot speak of symbols, we cannot speak of rhetoric, we cannot speak of a language that is able to capture the popular consciousness and the popular imagination for them to be able to accept it with facility and without recrimination. On the charge of discrimination against Americans or English, it is most unfair to judge me of a double standard of judging history. What I am saying is that Filipinos do not even know enough Spanish to be able to acquit themselves creditably. In fact, the halting and incoherent Spanish that we know makes the Spanish wonder and think that there is something wrong with the intelligence of the Filipinos. There is nothing wrong with the intelligence of the Filipinos, but there is everything wrong when we want to manifest our intelligence in a language that is not ours; in fact, in a language that was deliberately denied us by the Spanish masters themselves.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The committee chairman is recognized, with the indulgence of Commissioner Davide.

MR. VILLACORTA. The committee would like to explain its support for the proposal to the amendment of Commissioner Alonto. We feel that the criteria for singling out these two languages are as follows: the historic value of these two languages and the worldwide importance of these two languages given our close relations with Latin American countries, Spain and the Arab countries.

First, let me explain with respect to historic and cultural value. I do not agree with Commissioner Ople when he said that Spain was responsible for our having been elevated to the status of a nation from a group or a string of settlements. Historians are agreed that had Spain not arrived in the Philippines or had its arrival been delayed for 25 years, we would have been one solid and unified Muslim nation. It was more, as Commissioner Bennagen emphasizes, the struggles of our people that made us one nation and not the colonization of one country. Nonetheless, we beg to disagree with Commissioner Aquino that Spain has no significant impact on Philippine culture. The fact that most of us here carry Spanish names is proof that Spain has had a deep impact on our culture and identity. The cultural artifacts of the Philippines, particularly those that are found in churches, the architecture of most Filipino homes in Christian lowland places and even the languages of the Philippines, and there are numerous other examples that we can cite, prove that Spain did have a significant influence, although not always positive, but just the same significant, influence on Philippine culture. We can say the same thing about Arabic, and this need not be belabored. We thought we should mention this to explain our support for the amendment.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is now recognized.

MR. DAVIDE. Before we vote on the amendment, may I be allowed to ask some clarificatory questions?

The first question is: I understand that there is an existing law mandating Spanish as one of the official languages, and it shall remain so until all the books in Spanish at the National Archives or National Library shall have been translated into the official languages, Filipino or English. What would be the effect on this law the moment we approve the amendment? Would it mean that Spanish would no longer be such an official language?

MR. VILLACORTA. Is the Honorable Davide addressing the question to the committee?

MR. DAVIDE. To the committee or to the main proponents, Mr. Presiding Officer.

MR. VILLACORTA. The committee prefers to throw the question to the proponents.

THE PRESIDING OFFICER (Mr. Azcuna). The proponent, Commissioner Rodrigo, is recognized.

MR. RODRIGO. The amendment reads: "THE GOVERNMENT SHALL PROMOTE SPANISH AND ARABIC." This is not inconsistent with the law, so this does not repeal that law. However, we hope that Congress will repeal that law and make it only optional.

MR. DAVIDE. Under the proposal, nothing can prevent Congress to continue that law.

MR. RODRIGO. No, this provision does not.

MR. DAVIDE. Under the proposal, especially tying it up with the previous section we approved on English and Filipino as mediums of instruction and as official languages of communication until English shall be phased out by law, English can also be replaced by Spanish as an official language. This means that under the proposal, nothing can prevent Congress from adopting Spanish as an official language even after it shall have repealed the existing law making Spanish as an official language. Am I correct, Mr. Presiding Officer?

MR. RODRIGO. The constitutional provision is very clear that English remains an official language, until otherwise provided by law. It does not state that Spanish can be substituted for English, although, as the Commissioner said, there is already a law, a presidential decree.

MR. DAVIDE. Yes, I think it is a presidential decree.

MR. RODRIGO. The constitutional provision is not inconsistent with that presidential decree, so it can continue in force even after the approval of the Constitution with this provision.

MR. DAVIDE. Since it is not inconsistent with that particular law, Congress, even if it shall have repealed that law, may promulgate a law making Spanish as an official language?

MR. RODRIGO. Yes, the Commissioner is correct.

MR. DAVIDE. Another point, Mr. Presiding Officer. We have granted Muslim Mindanao autonomy, and we will allow the creation of a regional legislative body with several powers and prerogatives. May the legislative body for Muslim Mindanao mandate Arabic as a language of communication or medium of instruction within the region making it, therefore, a regional language but mandatory in character?

MR. RODRIGO. Yes, in addition to the official languages in the Constitution.

MR. DAVIDE. Would it not be in conflict with the proposed amendment when, insofar as Arabic is concerned, it should be promoted merely on a voluntary and optional basis?

MR. RODRIGO. As a regional language, if the legislature of that region wants to make it compulsory in that region, it is all right, Mr. Presiding Officer.

MR. DAVIDE. It would not be all right because in the Article on Language, Arabic would only be optional and voluntary.

MR. RODRIGO. That is nationwide.

MR. DAVIDE. That is correct, but the Article on Autonomous Regions opens with a section to the effect that there shall be autonomous regions in Muslim Mindanao and in the Cordilleras, subject to the provisions of this Constitution and national law. But definitely the autonomous regions and all the laws enacted by the autonomous region shall be subject to the provisions of this Constitution. Necessarily, this is a provision of the Constitution making Arabic merely voluntary and optional. So it will follow that the regional legislative body cannot mandate Arabic as a compulsory language in Muslim Mindanao.

MR. ALONTO. Mr. Presiding Officer, with the permission of the distinguished Commissioner, may I be recognized?

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of Commissioner Alonto?

MR. ALONTO. Mr. Presiding Officer, may I answer the question posed by Commissioner Davide?

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Alonto is recognized.

MR. ALONTO. The legislative power granted to the autonomous region is specifically stated in the Constitution.

MR. DAVIDE. That is correct, Mr. Presiding Officer, but subject to the opening sentence of the first section.

MR. ALONTO. But I do not believe there is such grant of a legislative power to the autonomous region to declare an official language within the region.

MR. DAVIDE. In other words, is it the position of the Commissioner that the autonomous legislative body cannot prescribe a law making Arabic a compulsory language in Muslim Mindanao?

MR. ALONTO That is my understanding, Mr. Presiding Officer.

MR. DAVIDE. Another point, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer, the issue has been belabored already. May I ask that we take a vote?

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide has one more minute.

MR. DAVIDE. Another point, Mr. Presiding Officer. What exactly is meant by "voluntary and optional"?

MR. OPLE. Mr. Presiding Officer, may I volunteer a brief reply to that?

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. I think when we say "voluntary and optional basis," we are not precluding the power of Congress to, let us say, repeal the compulsory teaching of Spanish as a general policy, but without prejudice to certain universities applying to the Ministry of Education and Culture for the compulsory teaching of Spanish with respect to certain definite subjects where a knowledge of Spanish is deemed by that university to be very essential to the development of expertise, for example, on a foreign service or law courses. What is wrong if the students are made to take certain units in Spanish? Even specialists now and the great mass of the studentry are free from this onerous burden of having to learn Spanish for which there will be no application after graduation.

MR. DAVIDE. In other words, it is now very clear that insofar as the relation of the State and the language is concerned, it is voluntary but an educational institution can make it compulsory in certain courses of study?

MR. OPLE. Yes, that is our interpretation, Mr. Presiding Officer. However, voluntary and optional propagation is not limited to that. For example, nothing will prevent the State from setting up a Spanish academy later on, the membership in which will be purely voluntary but which will endeavor to propagate and develop our own Spanish in a systematic manner with or without State support. There are many things that can be done on a voluntary and optional basis, Mr. Presiding Officer, but I think the trauma of our Spanish past so eloquently depicted by Commissioner Aquino in her brief commentary will probably be eliminated after we lift the burden on the backs of the students of having to learn Spanish by rote and by compulsion when this may have nothing to do with their own plans for the rest of their lives, unlike those in specialized subjects where Spanish can be very useful. Nothing in this provision will prevent a university from applying for permission to make such courses mandatory for definite subjects on a case-to-case basis for approval by the Ministry of Education and Culture.

MR. GUINGONA. Mr. Presiding Officer, may I ask some questions of the Honorable Commissioner Ople?

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Guingona is recognized.

MR. OPLE. I thought we were ready to vote, but I will be very happy to oblige.

MR. GUINGONA. This is with regard to the matter of the educational institution asking permission from the ministry. Does this mean that the compulsion will be imposed by the ministry or by the school?

MR. OPLE. Both, Mr. Presiding Officer, because the Ministry of Education has to grant clearance to a request from the university, and I suppose the MECS will have its own standards to govern cases of this nature.

MR. GUINGONA. I ask because educational institutions may offer courses as electives and they are generally not required to get permit from the ministry.

MR. OPLE. This is our interpretation, Mr. Presiding Officer.

MR. GUINGONA. I am a little confused because a while ago, I asked Commissioner Rodrigo the same question as to whether or not this particular provision would prohibit or restrict the government, either Congress, the ministry or some other body, from imposing compulsory study of Spanish, and his answer was no.

MR. OPLE. We have adjusted our views mutually.

Mr. Presiding Officer, what I want to emphasize is that we want to strengthen the promotion of Spanish on an effective basis, not on a symbolic and inutile basis.

MR. GUINGONA. What about state colleges and universities, Mr. Presiding Officer?

MR. OPLE. They will be governed, I suppose, by the same standard.

MR. GUINGONA. No, they do not have to ask permission from the ministry. Can they impose compulsory teaching in Spanish?

MR. OPLE. Subject to existing and future laws. I believe in the largest degree of autonomy for state colleges and universities.

MR. GUINGONA. What about private educational institutions, Mr. Presiding Officer?

MR. OPLE. The same thing, but minimum standards shall be maintained and enforced by the Ministry of Education, Culture and Sports.

MR. GUINGONA. I thank the Commissioner, Mr. Presiding Officer.

MR. OPLE. I also thank Commissioner Guingona.

THE PRESIDING OFFICER (Mr. Azcuna). What is the pleasure of Commissioner Maambong?

MR. MAAMBONG. Mr. Presiding Officer, I am listed as one of the proponents of this provision which we are about to vote on, but I notice that when we read it now with the historical legacy taken out, it appears: "THE STATE SHALL PROMOTE SPANISH AND ARABIC ON A VOLUNTARY AND OPTIONAL BASIS." I think it is a little bit awkward. I sought advice from President Muñoz Palma who is beside my table, and based on our discussion I was thinking that probably we could say: "SPANISH AND ARABIC LANGUAGES SHALL BE PROMOTED ON A VOLUNTARY AND OPTIONAL BASIS." How would that sound to the committee?

THE PRESIDING OFFICER (Mr. Azcuna). What does the chairman of the committee say?

MR. VILLACORTA. The sense is the same, Mr. Presiding Officer, although I think it would be unnecessary to put "LANGUAGES." We just say "SPANISH AND ARABIC."

MR. MAAMBONG. "SPANISH AND ARABIC SHALL BE PROMOTED ON A VOLUNTARY AND OPTIONAL BASIS."

MR. VILLACORTA. That is acceptable, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The committee has accepted the amendment.

MR. MAAMBONG. Just one point, Mr. Presiding Officer. I just would like to manifest that mention was made of Spanish as an official language by virtue of a presidential decree. I would like to indicate for the record that it is an interim recognition as an official language, pending the translation of documents which are in the Spanish language. So, actually, once we translate the Spanish documents into our official languages, like Filipino and English, this presidential decree will have a self-destruct mechanism.

Thank you.

MR. ROMULO. We are ready to vote, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Azcuna). We are now ready to vote. The committee has accepted this particular proposed amendment of Commissioners Rodrigo, Ople, Alonto and Maambong which reads: "SPANISH AND ARABIC SHALL BE PROMOTED ON A VOLUNTARY AND OPTIONAL BASIS."

As many as are in favor of this amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 31 votes in favor, 3 against and 2 abstentions; the amendment is approved.

MR. VILLACORTA. Mr. Presiding Officer, the committee would like to request for an adjournment.

THE PRESIDING OFFICER (Mr. Azcuna). Before we adjourn, Commissioner Rodrigo is recognized.

MR. RODRIGO. I just want to make of record that my fellow proponents of the original amendment before it was amended are Commissioners Rama, Laurel, Calderon, Jamir, Maambong, Monsod, Natividad, Tingson, Regalado and Bengzon.

MR. ROMULO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Acting Floor Leader is recognized.

MR. ROMULO. Mr. Presiding Officer, before we adjourn there is one more section which I feel is not controversial.

THE PRESIDING OFFICER (Mr. Azcuna). A motion to adjourn takes precedence over any other motion, so we must vote on it.

MR. SARMIENTO. Mr. Presiding Officer, point of information. It was not the Floor Leader who moved for the adjournment. It was an ordinary colleague so the motion was not proper.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair believes anybody can make a motion, besides, we are in the process of voting.

VOTING

As many as are in favor of the motion to adjourn, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 16 votes in favor, 20 against and 1 abstention; the motion to adjourn is lost.

The Acting Floor Leader is recognized.

MR. ROMULO. I ask that Commissioner Jamir be recognized.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Jamir is recognized.

MR. JAMIR. Mr. Presiding Officer, my amendment refers to line 17 of the committee draft. After the word "languages," put a comma (,) and add the words "ARABIC AND SPANISH."

MR. VILLACORTA. Will the Commissioner please read the entire section for the benefit of the entire body?

MR. JAMIR. Section 3 would now read: "The Constitution shall be promulgated in Filipino and English and shall be translated into the regional languages, ARABIC AND SPANISH."

MR. VILLACORTA. The committee accepts the amendment.

MR. JAMIR. I thank the Commissioner, Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Padilla is recognized.

MR. PADILLA. May I propose a formal amendment to read: "The Constitution shall be promulgated in Filipino and English and shall be translated into SPANISH, the regional languages AND ARABIC." In other words, we put the word "SPANISH" after "translated."

MR. VILLACORTA. We regret the committee cannot accept the proposed sequence because we feel that regional languages should take precedence over Spanish and Arabic.

MR. PADILLA. May I say just one word, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Commissioner may proceed.

MR. PADILLA. We have always considered, first, Filipino as national language, second, Spanish and we recognize, of course, the regional languages and now Arabic. However, Spanish seems to take precedence in the sense that it is one of the official languages after English.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bengzon is recognized.

MR. BENGZON. May I call for a vote, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Azcuna). Before we proceed to a vote, Commissioner Natividad is recognized.

MR. NATIVIDAD. No, Mr. Presiding Officer. I was preparing myself for an amendment on Section 4 should the voting be over.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is recognized.

MR. DAVIDE. I still have two amendments. The first would be after "regional languages," add the following: "SPOKEN BY MORE THAN FIFTY THOUSAND," thus, "regional languages SPOKEN BY MORE THAN FIFTY THOUSAND ARABIC AND SPANISH."

MR. OPLE. Point of information, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. May I ask the committee to resolve the issue they will present. According to some language experts, a language to be called as such must be spoken by at least a million people, otherwise, it is considered just a dialect. Commissioner Bennagen, I suppose, can shed some light on this.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bennagen is recognized.

MR. BENNAGEN. The status of a language as a category does not rest on the basis of population but rather on the basis of its structure, lexicon and grammar. So even if the language is spoken by 25 persons, if it can be understood by other groups, it acquires the status of a language. It is not mutually intelligible with other languages, although it is a language.

MR. DAVIDE. That is the reason I proposed the amendment. We might have several translations. It would be very, very expensive. So my proposal is to limit the translation to regional languages spoken by more than 50,000 people, just like the 1973 Constitutional provision.

MR. BENNAGEN. Can we not just say "MAJOR regional languages"? Not necessarily "MAJOR languages.

MR. DAVIDE. Yes, "MAJOR regional languages."

MR. BENNAGEN. But we understand that this should not preclude, of course, further translation into other languages.

MR. DAVIDE. Yes, it will not.

The other amendment is to substitute "The Constitution" with "THIS Constitution."

MR. BENGZON. May we call for a vote now, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Azcuna). The Chair would like to clarify the situation now.

Commissioner Jamir first stood up to propose the addition of "ARABIC AND SPANISH" at the end of the sentence, which was accepted by the committee but not yet voted upon. Then, Commissioner Padilla stood up to propose that "SPANISH" be transferred before "regional languages." It was not accepted by the committee.

So the Chair would like to submit to a vote first the proposal of Commissioner Jamir, after which, if it is approved, we will vote on whether or not we transfer "SPANISH" before "regional languages." Then, we will proceed to the amendment of Commissioner Davide.

VOTING

As many as are in favor of the proposal of Commissioner Jamir, which is to add "ARABIC AND SPANISH" after "regional languages," please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 31 votes in favor, 2 against and 1 abstention; the amendment is approved.

Commissioner Jamir is recognized.

MR. JAMIR. May I just read for the record the names of my cosponsors: Commissioners Rama, Laurel, Rodrigo, Calderon, Maambong, Monsod, Ople, Natividad, Tingson, Regalado and Bengzon.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). We will now vote on the proposal of Commissioner Padilla to transfer "SPANISH" before "regional languages," so that it will read: "translated into SPANISH, regional languages AND ARABIC."

VOTING

As many as are in favor of the amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 4 votes in favor, 28 against and 1 abstention; the amendment is lost.

We will now go to the proposal of Commissioner Davide which is to change "The Constitution" to "THIS Constitution."

VOTING

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 34 votes in favor and none against; the amendment is approved.

The next amendment is to add "MAJOR" before "regional languages."

VOTING

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 33 votes in favor and 1 against; the amendment is approved.

MR. NATIVIDAD. Mr. Presiding Officer.

MR. BENGZON. We now vote on the entire section, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Before we do that, the Honorable Natividad is recognized.

MR. NATIVIDAD. I have an amendment to Section 4, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). We will vote first on the entire Section 3, as amended.

MR. SUAREZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Suarez is recognized.

MR. SUAREZ. May I submit an amendment by addition to Section 3: "IN CASE OF CONFLICT, THE FILIPINO TEXT SHALL PREVAIL."

THE PRESIDING OFFICER (Mr. Azcuna). What does the committee say?

MR. VILLACORTA. The committee accepts, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection?

MR. MONSOD. I object, Mr. Presiding Officer.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Rodrigo is recognized.

MR. RODRIGO. I am a Tagalog from Bulacan, but if I were to follow my feelings, I would go for that. However, I want to use my head which is above my heart. All the debates here have been in English. There are terms which are almost impossible to translate into Tagalog, for example, "due process of law." There is no exact translation of that in Tagalog and besides, "due process of law" is already interpreted by our Supreme Court and by courts all over the world. For example, the provision about "informal and nonformal education" and "ecological consciousness." I do not know how to translate those in Tagalog. So while my heart tells me that I should vote for this, my head tells me that it is impractical, it is unfair.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Monsod is recognized.

MR. MONSOD. Mr. Presiding Officer, I cannot understand the situation where a translation will prevail over the original.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. Can we just appeal to Commissioner Suarez not to insist on settling this issue here. Can we leave this to the evolution of the Constitution and of the events in our country so that maybe the courts will prefer to go by the English text in the immediate future? But who knows? Because of this Constitution, the national language may so progress spectacularly, that in 20 years the national language will have achieved complete technical parity as a tool of the courts for jurisprudential purposes. So I think there is no burden for us to settle this issue now.

THE PRESIDING OFFICER (Mr. Azcuna). What do Commissioner Suarez and the committee say?

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner de Castro is recognized.

MR. DE CASTRO. I agree with the suggestions of Commissioner Ople and I plead with Commissioner Suarez to withdraw his amendment by addition.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

We are not insensitive to the appeals addressed to this humble Representation. After listening to the explanation of the Honorable "Prankisko" Rodrigo, I am willing to withdraw my amendment.

THE PRESIDING OFFICER (Mr. Azcuna). The proponent is withdrawing his amendment. Is the committee agreeable having accepted it?

MR. VILLACORTA. The withdrawal, as we understand it, Mr. Presiding Officer, means that we shall be silent about it. Am I correct?

THE PRESIDING OFFICER (Mr. Azcuna). Yes, the Commissioner is correct.

MR. VILLACORTA. Then the committee accepts, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). So the amendment is then withdrawn.

We are now ready to vote on Section 3, as amended, unless there is any further amendment. It reads as follows: "THIS Constitution shall be promulgated in Filipino and English and shall be translated into MAJOR regional languages, ARABIC AND SPANISH."

VOTING

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 34 votes in favor and none against; Section 3, as amended, is approved.

MR. NATIVIDAD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Honorable Natividad is recognized.

MR. NATIVIDAD. Thank you, Mr. Presiding Officer. I would like to propose an amendment on Section 4. After the word "established," delete all the words up to line 22 and in lieu thereof insert the following: "A COMMISSION, COMPOSED OF MEMBERS REPRESENTING VARIOUS REGIONS, AS PROVIDED

BY LAW, THAT SHALL UNDERTAKE, COORDINATE AND PROMOTE RESEARCHES ON FILIPINO AND OTHER LANGUAGES FOR THEIR DEVELOPMENT, PROPAGATION AND PRESERVATION," so it would read: "There shall be established A COMMISSION, COMPOSED OF MEMBERS REPRESENTING VARIOUS REGIONS, AS PROVIDED BY LAW, THAT SHALL UNDERTAKE, COORDINATE AND PROMOTE RESEARCHES ON FILIPINO AND OTHER LANGUAGES FOR THEIR DEVELOPMENT, PROPAGATION AND PRESERVATION."

THE PRESIDING OFFICER (Mr. Azcuna). What does the committee say?

MR. VILLACORTA. The committee proposes that instead of "COMPOSED OF MEMBERS," we shall stipulate "composed of LANGUAGE EXPERTS representing various regions." The reason we would like to insist on the term "LANGUAGE EXPERTS" is that this is such a sensitive task that we cannot leave to nonexperts and to politicians. So we feel that the development of the language should have the guidance and monitoring by language experts.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). What does the proponent say to the countersuggestion of the chairman?

MR. OPLE. Mr. Presiding Officer.

MR. NATIVIDAD. I yield to Commissioner Ople, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Ople is recognized.

MR. OPLE. I would like to support Commissioner Natividad precisely in retaining "MEMBERS REPRESENTING VARIOUS REGIONS" because the development of the national language may be too important to leave to the hands of experts. In the sense of specialists, I think Joaquin Ortega y Gasett put it very, very well when he said that specialists have their major limitations especially when their fields of competence must be related to the wider world and there is a sense in which the development of a language can be interdisciplinary. It can involve anthropology, sociology and even a grasp of politics in terms of what is attainable at a given moment. It can also involve a competence in history so that in the future the appointing power or Congress may have a wider margin of flexibility to choose the appropriate types of regional representatives to this body. I think Commissioner Natividad is right in proposing the words "MEMBERS FROM VARIOUS REGIONS" rather than "LANGUAGE EXPERTS."

May I just cite an example. Suppose we want Demetrio Quirino to sit in this commission. He is a school administrator, which is his specialty. He is not a language expert by any standards. By using "LANGUAGE EXPERTS," this provision will bar enthusiasts of the national language like Demetrio Quirino of Nueva Vizcaya.

MR. BENNAGEN. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Bennagen is recognized.

MR. BENNAGEN. Yes, we do recognize that and, as a matter of fact, we are combining the two criteria, interdisciplinary expertise and regional representation, so that we take these two into account.

MR. SARMIENTO. Mr. Presiding Officer.

MR. NATIVIDAD. So what will be the position of the committee?

MR. BENNAGEN. It will read: "There shall be established A COMMISSION COMPOSED OF INTERDISCIPLINARY EXPERTS REPRESENTING VARIOUS REGIONS."

MR. NATIVIDAD. But then the choices will be limited to experts, Mr. Presiding Officer?

MR. BENNAGEN. Yes, but as pointed out and as shown by experience, we do have persons who have been involved in the propagation of Filipino, coming from the fields of medicine, physics, engineering, anthropology, political science, psychology and linguistics.

MR. SARMIENTO. Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Sarmiento is recognized, followed by Commissioner de Castro.

MR. SARMIENTO. May we propose amendments? Maybe we can resolve this impasse. These are proposed by this Representation, President Muñoz Palma and Commissioner Bengzon.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). With the indulgence of Commissioner de Castro, may we ask Commissioner Sarmiento to finish first.

MR. SARMIENTO. We propose that instead of "COMMISSION," we use "NATIONAL LANGUAGE COMMISSION." Before "and representatives," add

"LANGUAGE EXPERTS" to read: "composed of LANGUAGE EXPERTS and representatives." Mr. Presiding Officer, this is the proposal of these Commissioners, language experts from the University of the Philippines and members of the Pambansang Samahan sa Wika.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). The Chair finds the addition of "LANGUAGE EXPERTS" similar to the position of the committee which is not acceptable to the proponent. May we now hear Commissioner de Castro.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

When we talk of language experts, are we referring to the local language experts?

MR. BENNAGEN. Yes, Mr. Presiding Officer.

MR. DE CASTRO. I do not know yet of anybody who is a recognized expert in Cebuano, in Tausug and in Ilocano.

MR. BENNAGEN. We do have experts in these, not necessarily coming from the regions.

MR. DE CASTRO. It would be a matter of choice or a matter of proof to say that one is an expert. But when Commissioner Natividad – I hope I am reading his mind – eliminated the word "EXPERT," he leaves it to law or to the appointing authority to choose the right persons to compose this commission.

Perhaps, the expert we are referring to may be chosen by the appointing authority, but it will be difficult for us to add the words "LANGUAGE EXPERTS" here and limit the appointing authority from appointing the appropriate people he or she believes to form this commission. I, therefore, support the proposition of Commissioner Natividad.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. BENNAGEN. Mr. Presiding Officer, just one point. We have already broadened the area of choice from just "LANGUAGE EXPERTS" to "INTERDISCIPLINARY EXPERTS," based on our own experiences that not only those who are language experts have been very active in the propagation of Filipino. We include also as experts, native speakers of the language.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Natividad is given the floor to expound on the reason for his amendment.

MR. NATIVIDAD. The reason we use the word "MEMBERS" is to allow the experts and, at the same time, the interdisciplinary authorities to come in as provided by law. So here we are giving all flexibility to this new commission in order to assure us that the perception should not be too narrow.

We have also experiences on these so-called experts, Mr. Presiding Officer, and they can be very inflexible and too narrow-minded. The commission will need fresh air in the form of interdisciplinary and intersectoral representatives to come in. That is why we placed "MEMBERS" and "AS PROVIDED BY LAW" so that Congress or the appointing authority can provide all the flexibility for a truly efficient commission for this matter.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Rosario Braid would like to say something.

MS. ROSARIO BRAID. Mr. Presiding Officer, I would like to harmonize the two views because I think there is a resistance against the word "EXPERTS." So I propose the phrase "COMPOSED OF MEMBERS OF VARIOUS DISCIPLINES AND REGIONS," which means that this would include experts, multidisciplinary teams from different sciences, as well as nonexperts who may have a broad overview of needs of society but may not be an expert in any paticular area.

MR. NATIVIDAD. The amendment is accepted.

THE PRESIDING OFFICER (Mr. Azcuna). So the amendment, as amended, should read: "A COMMISSION COMPOSED OF MEMBERS OF VARIOUS DISCIPLINES AND REGIONS."

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Tingson is recognized.

MR. TINGSON. I am just wondering if we incorporate the amendment as proposed by our President along with Commissioner Sarmiento, whether or not the proponent, Commissioner Natividad, is willing to just delete "COMPOSED OF MEMBERS REPRESENTING . . ." and the suggestions, because we are saying here: "THERE SHALL BE ESTABLISHED A NATIONAL LANGUAGE COMMISSION, AS PROVIDED BY LAW, THAT SHALL UNDERTAKE, COORDINATE AND PROMOTE RESEARCHES . . ." We are already providing, Mr. Presiding Officer, that this be provided by law. So we leave it to the legislature. They will know better later on. We do not need to quibble here.

THE PRESIDING OFFICER (Mr. Azcuna). The amendment of the Honorable Natividad has been accepted by the committee, and the Chair believes we should vote on it. If it loses, then we can vote on the alternative wording proposed by Commissioner Sarmiento.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer. Before we vote on the proposed amendment, I would like to pose some inquiries to the committee. The present Institute of National Language does not enjoy the dignity and the stature it deserves. I seldom hear its accomplishments or activities.

Does the committee have in mind certain guidelines to Congress in the formation of this Commission on National Language? For example, must the members be natural-born citizens? Can an alien, who is an expert in a particular discipline, be appointed to the commission, or should the commission be independent in the sense that it should be independent of the Ministry of Education, Culture and Sports? Should it be under that ministry?

May we know from the committee whether or not it has formulated certain guidelines to Congress in the formation of this transcendental body known as the Commission on National Language?

MR. VILLACORTA. The specific details that the Commissioner mentioned were not contemplated by the committee. We are mainly concerned with two specific guidelines; namely, that there should be experts from different disciplines and that there should be representation from various regions.

MR. NOLLEDO. Will the Commissioner agree with me, Mr. Presiding Officer, that the members of the commission must be natural-born citizens and that no alien shall be appointed to the commission?

MR. VILLACORTA. Now that the Commissioner mentioned it, the committee agrees with him, Mr. Presiding Officer.

MR. BENNAGEN. Although there could be consultants who are non-Filipinos, Mr. Presiding Officer.

MR. NOLLEDO. Will the Commissioner agree with me that the commission should be under the Ministry of Education, Culture and Sports?

MR. BENNAGEN. No, it should be different.

MR. NOLLEDO. Should it be independent from the ministry?

MR. VILLACORTA. It should be independent.

MR. NOLLEDO. But we expect that the functions must be coordinated with the functions of the ministry.

MR. VILLACORTA. That is right, Mr. Presiding Officer.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner de Castro is recognized.

MR. DE CASTRO. Are the suggestions of Commissioner Nolledo not covered by "AS PROVIDED BY LAW"? The law will certainly take care of all these things. It will be very, very difficult for us to be very concise in the formulation of our constitutional provisions, and yet we say "AS PROVIDED BY LAW," leaving almost nothing to Congress to think about.

So I believe that the matter of appointing a natural-born citizen and an expert will be covered by the phrase "AS PROVIDED BY LAW." This will give Congress a wide latitude to act on the matter.

Thank you, Mr. Presiding Officer.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). With the indulgence of the Commissioners, Commissioner Davide is recognized.

MR. DAVIDE. Mr. Presiding Officer, we would like to hear the final proposal.

THE PRESIDING OFFICER (Mr. Azcuna). The proposal is: "THERE SHALL BE ESTABLISHED A COMMISSION COMPOSED OF MEMBERS REPRESENTING VARIOUS REGIONS AND DISCIPLINES, AS PROVIDED BY LAW, THAT SHALL UNDERTAKE, COORDINATE AND PROMOTE RESEARCHES ON FILIPINO AND OTHER LANGUAGES FOR THEIR DEVELOPMENT, PROPAGATION AND PRESERVATION."

MR. DAVIDE. May I propose the following amendments, Mr. Presiding Officer.

MR. SARMIENTO. Mr. Presiding Officer, before Commissioner Davide proposes amendments, I conferred with Commissioner Natividad and he accepted our amendment. May we know the position of the committee?

MR. BENNAGEN. The amendment is accepted.

THE PRESIDING OFFICER (Mr. Azcuna). The committee has already accepted the proposal of Commissioner Natividad. May we know from Commissioner Sarmiento what their amendment is?

MR. SARMIENTO. Instead of "COMMISSION," we proposed "NATIONAL LANGUAGE COMMISSION" which was accepted by Comissioner Natividad. So may we know the stand of the committee?

MR. VILLACORTA. The committee accepts the amendment.

THE PRESIDING OFFICER (Mr. Azcuna). The rest of the proposal remains the same.

MR. SARMIENTO. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Davide is recognized.

MR. DAVIDE. I have two proposals, Mr. Presiding Officer. The first is to substitute "THERE SHALL BE ESTABLISHED" with "CONGRESS SHALL ESTABLISH" and to delete "AS PROVIDED BY LAW." So it will merely read: "CONGRESS SHALL ESTABLISH A NATIONAL LANGUAGE COMMISSION COMPOSED OF MEMBERS REPRESENTING VARIOUS REGIONS AND DISCIPLINES WHICH SHALL UNDERTAKE . . ."

MR. VILLACORTA. It is accepted, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Mr. Presiding Officer. Will the Honorable Davide agree to change the word "ESTABLISH" to "CREATE," so it will read: "CONGRESS SHALL CREATE"?

MR. DAVIDE. It may be all right, but we already have several articles in the Constitution where we always mandate Congress in this matter to establish, not to create. So for uniformity in the use of language, I decline, Mr. Presiding Officer.

MR. DE CASTRO. Not necessarily, Mr. Presiding Officer. In the Article on the Constitutional Commisssions, we stated that Congress shall "create" a Human Rights Commission, not "establish," if I remember right.

MR. VILLACORTA. Shall we leave that to the Committee on Style?

MR. DAVIDE. Yes, to the Style Committee.

MR. DE CASTRO. May we remind the Style Committee that "establish" and "create" are two words which we have discussed here.

THE PRESIDING OFFICER (Mr. Azcuna). We are now ready to vote on these consolidated amendments of Commissioners Natividad, Sarmiento, Davide and others.

MR. VILLACORTA. May the committee read the formulation for the guidance of the body?

THE PRESIDING OFFICER (Mr. Azcuna). The committee will please proceed.

MR. VILLACORTA. The formulation reads: "CONGRESS SHALL ESTABLISH A NATIONAL LANGUAGE COMMISSION COMPOSED OF REPRESENTATIVES OF VARIOUS REGIONS AND DISCIPLINES WHICH SHALL UNDERTAKE, COORDINATE AND PROMOTE RESEARCHES ON FILIPINO AND OTHER LANGUAGES FOR THEIR DEVELOPMENT, PROPAGATION AND PRESERVATION."

VOTING

THE PRESIDING OFFICER (Mr. Azcuna). As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 30 votes in favor and none against; the amendment is approved.

MR. VILLACORTA. Mr. Presiding Officer, the committee requests the discussion of the Article on Science, Technology, Arts and Culture. *(Laughter)*

MR. NATIVIDAD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Azcuna). Commissioner Natividad is recognized.

MR. NATIVIDAD. Mr. Presiding Officer, before we go on, let me read the other coauthors of the just approved amendment: Commissioner Sarmiento, President Muñoz Palma, Commissioners Davide, Rama, Laurel, Rodrigo, Calderon, Jamir, Maambong, Monsod, Ople, Tingson, Regalado, Bengzon and de los Reyes.

Thank you very much.

THE PRESIDING OFFICER (Mr. Azcuna). Let it be so recorded.

The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA. I move that we adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Azcuna). Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:53 p.m.

R.C.C. NO. 80

Thursday, September 11, 1986

OPENING OF SESSION

At 9:59 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Cirilo A. Rigos.

Everybody remained standing for the Prayer.

PRAYER

REV. RIGOS. Let us pray.

Most merciful God, for the beauty of this day we give Thee thanks. For the love in our hearts, the peace in our souls, the serenity of our spirits, the strength of our bodies, and the many tokens of Thy goodness, we give Thee thanks.

Help us today to obey the leading of Thy Spirit, that we may continue to work with a sense of mission, and pursue our mission with a sense of duty.

Grant us wisdom and courage for the living of these days. As we deal with one another, make us channels of Thy grace.

Clothe us with humility, and save us from the folly of seeking recognition for every little thing we do. Inspire us to give the best that we can, even though we may not be credited for it.

And to Thy name we ascribe all glory and majesty, dominion and power, through Jesus Christ our Lord. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present
Aquino	Present*
Azcuna	Present*
Bacani	Present
Bengzon	Present
Bennagen	Present
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present*
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present*
Suarez	Present
Sumulong	Present
Tadeo	Present*
Tan	Present
Tingson	Present
Treñas	Present*
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 36 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Motion and Communications, the President making the corresponding references:

MOTION

MOTION REQUESTING THE SECRETARIAT TO COMPILE, IN CHRONOLOGICAL ORDER, THE INVOCATIONS OF COMMISSIONERS AND TO PUBLISH THEM IN BOOK FORM WITH THE TITLE "THE LIVING GOD AND THE COMMISSION."

Presented by Honorable Davide, Jr.

(Motion No. 3 – Constitutional Commission of 1986)

To the Steering Committee.

COMMUNICATIONS

Communication from officers and members of the Bicol Brigade, Kapatiran ng mga Kawal na Manunulat sa Pilipino, Fishermen, Farmers and Sailors Association of the Philippines, Inc., Cultural Communities Association of Surigao del Sur, and People's Tri-Media Foundation, all of Surigao del Sur, submitting various proposals on the development of Filipino culture.

(Communication No. 827 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from four hundred (400) officers/members of the Subic Market Vendors Association, Subic, Zambales, seeking the retention of the US military bases in the Philippines.

(Communication No. 828 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Federico C. Cipriano of Sumagui, Bansud, Mindoro Oriental, transmitting a copy of 391 signatories all from Mindoro Oriental suggesting that the Constitution be written and promulgated in Tagalog.

(Communication No. 829 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 149 signatories all of Cebu and Mandaue City, seeking inclusion in the Constitution of: "The right of a citizen to keep and bear arms shall be recognized, and in consonance therewith, a well regulated citizen's militia may be formed for the security of the State, life, liberty and property of persons."

(Communication No. 830 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Mr. Cesar V. Canchela of the United Architects of the Philippines, CCP, Roxas Blvd., Manila, submitting a joint resolution seeking utilization of the services of qualified Filipino technological professionals and consultants on government projects funded by the Philippine government and/or by foreign loans and grants.

(Communication No. 831 – Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Manuel C. Calumpit of St. Louis School, Solano, Nueva Vizcaya, submitting for consideration by the Constitutional Commission various proposals on accountability of public officers.

(Communication No. 832 – Constitutional Commission of 1986)

To the Committee on Accountability of Public Officers.

Letter from Mr. Dennis G. dela Torre, Acting Chairman, Movement for the Abolition or Reorientation of C.M.T. (MARC) suggesting, among others, that the term "civil service" in Section 6 of Proposed Resolution No. 537 under Committee Report No. 36 be changed to "civic service."

(Communication No. 833 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Mr. Antonio L. Cantero, Chairman, Filipino Advertising Agencies for Filipinization, of 269 EDSA corner Connecticut, Greenhills, Mandaluyong, Metro Manila, recommending that the ownership and management of mass media, including advertising agencies, should be limited to Filipino citizens or to corporations wholly owned and managed by such citizens.

(Communication No. 834 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Telegram from 13 officers of the Association of Philippine Physicians in America, Inc., seeking inclusion in the

Constitution of a provision that would make a natural-born citizen of the Philippines who has lost his/her Philippine citizenship a transferee of private lands.

(Communication No. 835 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from Mr. Edilberto F. Laput of 48-F 20th Avenue, Cubao, Quezon City, transmitting a copy of an article: "Christian Communism: Solution for Poverty" with the hope that the ideas contained therein may find a place in the Constitution.

(Communication No. 836 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Isidro A. Mutia of 2318 Lopez Jaena Street, Pagadian City, suggesting that the "Teaching of the Holy Bible" be required in public and private schools from Grade I to college.

(Communication No. 837 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from 95 members of Davao City Association of Teachers, Parents and Students, Davao City, suggesting to the Constitutional Commission to include Spanish as one of the official languages.

(Communication No. 838 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from the Executive Board of the Philippine Social Science Council, Inc., endorsing a proposal to adopt a two-third (2/3) to one-third (1/3) ratio of ownership in public utilities firms in favor of Filipinos.

(Communication No. 839 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letter from 151 signatories of the Philippine Women's University, College of Education Alumnae Association, Taft Avenue, Manila, suggesting that free education be extended up to high school level.

(Communication No. 840 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Ms. Marie Kletke, 904 N. Avalon Blvd., Wilmington, California 90744, suggesting a provision granting proprietary rights to overseas Filipinos who are natural-born Filipinos including those who may have acquired foreign citizenship.

(Communication No. 841 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letters seeking to incorporate in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

1) Dr. Julieta Lorenzo of 67 West Capitol Drive, Barrio Kapitolyo, Pasig, and 733 others.

(Communication No. 842 – Constitutional Commission of 1986)

2) Mr. Elpidio C. Ocampo of San Francisco del Monte, Quezon City, and 415 other concerned citizens.

(Communication No. 843 – Constitutional Commission of 1986)

3) One thousand seven concerned citizens of varying backgrounds and occupations with their respective addresses.

(Communication No. 844 – Constitutional Commission of 1986)

4) Five hundred seven concerned citizens of varying backgrounds and occupations from Quezon City and Caloocan City.

(Communication No. 845 – Constitutional Commission of 1986)

5) One hundred sixty-seven signatories most of whom are employees of the Commission on Audit.

(Communication No. 846 – Constitutional Commission of 1986)

6) Mr. Bienvenido V. Santos
Apo Street, Quezon City

(Communication No. 847 – Constitutional Commission of 1986)

7) Mr. Filemon F. del Prado
Ford St., Filinvest Homes South
Biñan, Laguna

(Communication No. 848 – Constitutional Commission of 1986)

8) Ms. Carmelita M. Lara
447 Gen. Lim St.
Little Baguio, San Juan, Metro Manila

(Communication No. 849 – Constitutional Commission of 1986)

9) Ms. Aida T. Acena
327 Gen. Vicente Lim St.
Little Baguio, San Juan, Metro Manila

(Communication No. 850–Constitutional Commission of 1986)

10) Mr. Gary Garcia
82 Scout Gandia
Quezon City

(Communication No. 851 – Constitutional Commission of 1986)

11) Ms. Delia A. Caninel
75 Scout Lozano
Quezon City

(Communication No. 852 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF C.R. NO. 29
(Article on Education, Science, Technology, Sports Arts and Culture)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we continue the consideration of Committee Report No. 29 on the proposed Article on Education, Science, Technology, Sports, Arts and Culture on Second Reading.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Human Resources are requested to occupy the front table in order that we may continue the consideration on Second Reading of the proposed Article on Education, Science, Technology, Sports, Arts and Culture.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized to present an amendment to the section on science and technology.

MS. QUESADA. Before the interpellations and amendments, could we just have a reiteration of the importance of science and technology in our national development?

THE PRESIDENT. Commissioner Quesada will please proceed.

MS. QUESADA. Science and technology have become strategic factors in the economic growth and progress of developing nations. But we would like to stress the fact that science and technology in the Philippines have really lagged for many years – something like 100 years behind – in the analysis of the science and technology community. Therefore, this particular section would address the inadequacies of the past years to give stress to science and technology.

The Malolos Constitution made no mention of science and technology or other related areas of concern. It was the 1935 Philippine Constitution that first provided for science and technology as a major concern of the State. It recognized the central place of science in pursuing a balanced national development and it projected the necessity of developing science as a constitutional goal. Section 4, Article XIV of said Constitution set forth the following:

> The State shall promote scientific research and invention. Arts and letters shall be under its patronage. The exclusive right to writings and inventions shall be secured to authors and inventors for a limited period.

The provisions of the 1973 Constitution were strengthened to put additional stress on the promotion of science and technology in the national program of economic development, with the objective of achieving the most profitable utilization of the country's resources. Thus, Section 9 (1), Article XV on the General Provisions of the said Constitution provided:

> (1) The State shall promote scientific research and invention. The advancement of science and technology shall have priority in the national development.
>
> (2) Filipino culture shall be preserved and developed for national identity. Arts and letters shall be under the patronage of the State.
>
> (3) The exclusive right to inventions, writings, and artistic creations shall be secured to inventors, authors and artists for a limited period. Scholarships, grants-in-aid, or other forms of incentives shall be provided for specially gifted citizens.

Contentwise, the science and technology provision should be strengthened and widened in scope. The promotion and advancement aspect of scientific research and invention, which is what was stressed in the 1973 and 1935 Constitutions, should be retained. However, other important aspects or areas of science and technology, such as policy and innovation process, other than research development and inventions, should be added. This includes a provision for other science and technology activities like scientific and technological services and education and training of scientific and technological personnel. Likewise, this should include other aspects of the innovation process such as introduction of results of research in the economy and other spheres of life, dissemination of scientific and technical knowledge, the application of science and technology for national development and social progress. The protection of rights to invention and scientific discoveries, as well as recognition and reward for scientific and technological achievement, should also be included.

In order to insure the integration of science and technology in national development, two important considerations must be embodied in the proposed science and technology provision. First, the State should promote other kinds of technological capacity in addition to research and development capability. Moreover, technological capacity, that is, the ability to make sound technological decision, must be developed as broadly and as deeply as possible. Clearly, this capacity is needed even by small-scale farmers and entrepreneurs. Secondly – and this is related to the first – the State must see to it that the whole Filipino people are imbued with the scientific outlook as an integral part of their evolving culture. Indeed it must be recognized that the scientific method is one of the keys that will unlock the creative and productive potential of the people. So, with these, we would like to present three sections on science and technology.

MR. VILLACORTA. Madam President, we would just like to point out that Commissioner Quesada is the chairman of the Subcommittee on Science and Technology and the members are Commissioners Bennagen and Rosario Braid.

THE PRESIDENT. Will Commissioner Villacorta please read Section 1 for the information and guidance of everybody?

MR. VILLACORTA. Madam President, Section 1 reads:

> Science and technology are essential for economic growth and national development. The State shall give highest priority to research and development, invention, innovation and their utilization; and to science and technology education, training and services. The State shall support the development of indigenous, appropriate and independent scientific and technological capabilities and the application of these to the nation's productive systems for self-reliant and sustainable progress in the service of the people.

Commissioner Guingona would like to say a few words on this, Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Madam President.

This section, as read by our distinguished chairman, contains the following statements: "The State shall support the development of indigenous, appropriate and independent scientific and technological capabilities." The proposed Section 19 of Committee Report No. 36 on the Declaration of Principles which recognizes the role of science provides:

> Towards this end, it shall promote the development of an indigenous socially responsive and nationalist-oriented scientific and technological capability.

This Representation had the occasion to call the attention of the distinguished chairperson of the Subcommittee on Science and Technology and I think the subcommittee accepted my proposal to retain this provision on Section 1. If the Commission later approves the provision that I also read, as proposed by the Committee on Preamble, National Territory, and Declaration of Principles, we would have no objection if this particular statement is deleted in order to avoid repetition.

THE PRESIDENT. What is the pleasure of Commissioner Rosario Braid?

MS. ROSARIO BRAID. Madam President, let me just add a sentence or two to underscore the need for more concern for science and technology. In the Philippines, the allocation for research and development is only 20 percent of our GNP, which is the lowest in the whole ASEAN region. Developed countries have it anywhere from 2 percent to as high as 4.5 percent. We have this very low allocation. It is strongly recommended by the United Nations that developing countries appropriate at least 1 percent of our GNP for research and development.

Thank you.

THE PRESIDENT. Are there any other comments from the committee?

MR. VILLACORTA. Madam President, we are now ready for interpellation and amendments.

MR. RAMA. Madam President, may we request that only one or two members of the committee speak so that we could proceed a little faster.

I request that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Before I proceed to present my amendments, I would seek some clarification on the last sentence of Section 1. It reads: "The State shall support the development of indigenous, appropriate and independent scientific and technological capabilities." Should these three be cumulative or is it enough that one is present?

MS. QUESADA. These are not cumulative. Actually, there are different meanings to these particular concepts that we have introduced.

MR. DAVIDE. In other words, if the scientific and technological capability is indigenous, or if it is appropriate, or if it is independent, the State shall support either or all of them?

MS. QUESADA. All of them.

Madam President, could we just explain what we mean by the words "indigenous" and "independent"?

MR. DAVIDE. I am not seeking for its deletion.

MS. QUESADA. All right.

MR. DAVIDE. I have another point. When the committee states, "the application of these to the nation's productive systems for self-reliant and sustainable progress in the service of the people," does it refer specifically to the principal objective of science and technology as essential for economic growth and national development?

MS. QUESADA. Yes, Madam President.

MR. DAVIDE. So may I propose the following amendments. The first will be on line 2; change "development" to "PROGRESS."

MS. QUESADA. Is there any difference between the concept of "development" and "PROGRESS"?

MR. DAVIDE. Precisely, "PROGRESS" is higher in category. Economic growth is even national development already. And since the committee admitted that "the nation's productive systems for self-reliant and sustainable progress in the service of the people" would practically be covered by the first sentence, I wanted to bring in the word "PROGRESS' instead of just "development."

MS. QUESADA. Would the proponent's concept of "PROGRESS" include the quality of life?

MR. DAVIDE. Certainly; practically, that is the total effect already. That is why Commissioner Padilla even wanted to insert the word "PROGRESSIVE" or "PROGRESS" in the Preamble.

MS. ROSARIO BRAID. Madam President, may I just ask one question. Would "PROGRESS" connote or denote the involvement of people in the generation of production of technology; in other words, their active participation?

MR. DAVIDE. Certainly. Without people's participation, there cannot be national progress. And, besides, that particular concept is covered already in the last sentence of Section 3.

MR. SARMIENTO. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May we know from the committee whether we are in the stage of interpellations or debate or period of amendments, because we have not yet finished the period of interpellations. We limited our interpellations before on education and language, but never on science and technology. It seems to me that we are now in the period of amendments.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. What we have done when we were discussing the section on language was that we combined interpellations and amendments to save time. I wonder if there is any objection to our using the same procedure this time.

MR. SARMIENTO. Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. How about Commissioner Davide? Is he through? Not yet.

MR. MONSOD. I have an anterior amendment.

THE PRESIDENT. Anterior amendment?

MR. MONSOD. Yes, Madam President. I also have a proposal for the first sentence. I was wondering if we can coordinate on this rather than debate on each and every word.

THE PRESIDENT. May we first have Commissioner Monsod's proposed amendment.

MR. MONSOD. I was just going to suggest that to harmonize this with the section on national economy, and with the thought of a self-reliant economy, we should just say in the first sentence: "Science and technology are essential for INDEPENDENT national development AND IMPROVEMENT IN THE QUALITY OF LIFE." So, everything else in the bottom can probably be removed – on reliance, sustainable progress and nation's productive systems.

THE PRESIDENT. Is there any other idea on this? Maybe we can suspend the session for a few minutes.

MS. QUESADA. Madam President, we would really want to stick to our formulation because of the importance of highlighting the role of science and technology for economic growth. We believe that because of the backwardness of science and technology, we have to project their importance and how they are related to economic growth. We believe that science and technology have not been given enough push, probably because they have not contributed to economic growth. We would, therefore, like to retain the phrase "economic growth and national development."

THE PRESIDENT. Is there any other amendment? How about Commissioner Davide? Is he insisting on his amendment?

MR. DAVIDE. Unless Commissioner Monsod would seek for a possible discussion of his proposed amendment; insofar as mine is concerned, I feel that "PROGRESS" is broader, more embracing than just development.

THE PRESIDENT. Is Commissioner Davide not satisfied with the explanation given by Commissioner Quesada?

MR. DAVIDE. Yes, Madam President. So, I would put it to a vote with the idea that "national development" is already embraced, as a matter of fact, in "PROGRESS." And the main thrust of science and technology should be a total progress.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 10:29 a.m.

RESUMPTION OF SESSION

At 10:38 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. VILLACORTA. Madam President, Commissioner Quesada will read the formulation as agreed with the other proponents.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Based on the agreement between Commissioners Davide and Monsod, this is now the new formulation: "Science and technology are essential for national development AND PROGRESS. The State shall give highest priority to research and development, invention, innovation and their utilization; and to science and technology education, training and services. The State shall support indigenous, appropriate and self-reliant scientific and technological capabilities and the application of THESE to the nation's productive systems AND NATIONAL LIFE."

According to Commissioner Monsod, "NATIONAL LIFE" would include sports, culture and other aspects of our lives.

THE PRESIDENT. So this is now the new formulation of Section 1?

MS. QUESADA. This is the new formulation. We have deleted some words which they felt were redundant and would already cover the meanings that are expressed in some other terms.

THE PRESIDENT. Can we have that again and slowly please so that we can correct our draft?

MS. QUESADA. The first sentence reads: "Science and technology are essential for national development AND PROGRESS." The understanding here is that "PROGRESS" would also include the quality of life and that "national development" would also include economic growth. Then the next sentence reads: "The State shall give highest priority to research and development, invention, innovation, and their utilization; and to science and technology education, training and services. The State shall support indigenous, appropriate and SELF-RELIANT scientific and technological capabilities and the application of THESE to the nation's productive systems AND NATIONAL LIFE."

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. May I ask that Commissioner Davide be recognized first before we vote.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, just two minor corrections. Instead of "The State shall," it should only be "IT" so that there is no repetition of "The State." And then, delete "of this" after "application" but make "the" before "application" "THEIR."

MS. ROSARIO BRAID. Madam President, there seems to be two "nation's" here – "nation's productive systems" and "national life." I do not mind it but the Style Committee might want to do something about that.

MR. DAVIDE. The first "nation's" should also be deleted.

MS. ROSARIO BRAID. Yes.

MS. QUESADA. Accepted, Madam President.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. It would then read "and the application of THESE to the productive systems AND NATIONAL LIFE." If we omit "nation's productive systems," perhaps "PRODUCTIVITY" might be a better word. So there is a problem here. The phrase "nation's productive systems" is all right but if we omit "nation's," then "productive systems" is not too appropriate and perhaps "PRODUCTIVITY" might be a better concept.

MS. QUESADA. Madam President, I think we agreed to use "productive systems," so if the deletion of the word "nation's" would be a problem maybe we could use the words "the country's productive systems" to refer to our own productive system.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Just a minor suggestion. Instead of "indigenous," can we use "LOCAL"? In ecclesiastical terminology, we do not use this anymore because of its connection with India and "indianization." The origin of this is linked with the Indians of the Indias, that is why I would propose that we use "LOCAL" instead of "indigenous."

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. We have just explained the word "indigenous" to mean "having originated or is being produced, growing, living or occurring naturally in a particular region or environment." This is a very common expression in the United Nations, in the documents of the UNCTAD, UNESCO and UNIDO especially when referring to indigenous human and natural resources development of indigenous technological capability. So the appropriate term in the science and technology community is really "indigenous" instead of "LOCAL."

BISHOP BACANI. I will not insist. I would just like to note that in another sphere that is no longer looked upon with favor. Indeed they use the word "inculturated" or "aculturated."

MR. VILLACORTA. So, Commissioner Bacani is willing to withdraw his amendment?

BISHOP BACANI. Yes.

MR. VILLACORTA. Thank you very much.

Madam President, I think we have had sufficient discussion on this matter, and we would like to ask for a vote.

MS. ROSARIO BRAID. Madam President.

MR. PADILLA. Madam President.

MS. ROSARIO BRAID. Just for the record, Madam President. The word "indigenous" is more specific, but when we refer to United Nations documents, they use a more difficult concept which we may not want to use. It is endogenous – e-n-d-o-g-e-n-o-u-s – but since "indigenous" is better understood, we prefer to use it rather than "endogenous."

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I am happy with the insertion of the word "PROGRESS" by Commissioner Davide and which was accepted by the committee. My suggestion is on line 3; delete the word "highest" because this has been overused in many of our articles. I do not know how many times it has appeared in various articles, and Congress may not know which among those articles that are characterized as highest priority should be given top priority. Will not the committee just delete the word "highest"?

MR. VILLACORTA. Madam President, the reason why the committee would want to use the word "highest" is that as compared to the universally accepted benchmark figure for allocating funds for science and technology, which is 2 to 4 percent of the GNP, the Philippine government has usually allocated only 0.5 percent of its GNP. We thought that this is far below the universally accepted allocation for science and technology. Commissioner Bernas has the figures. I think in 1984, the Philippines has set aside only $18.5 million as against $127 million set aside by South Korea in 1975 for research and development.

MR. PADILLA. There is no quarrel on the importance of science and technology and, likewise, on our desire for Congress to appropriate within the resources of the country a greater share in the national budget. But that is beside the point. The word is "highest" priority. Would it not be sufficient for Congress to use its judgment in giving priority to this project of developing science and technology?

MS QUESADA. In the 1973 Constitution, the phrase "highest priority" was already placed, so we feel that perhaps there is a need to improve on this and increase its importance by having the word "highest." Anyway, this relates to how the budget will be allocated for this particular field. And I think this will have great bearing in the attempt of the National Science and Technology Authority to beef up its budget. They have already planned for a six-year program and they hope that there will be a 1.5 percentage of the gross national product. So, maybe this mandate in the Constitution will really help put into reality the aspiration of our people to keep pace with other developing countries since we really have lagged behind. And it is really shameful that the Philippines even lags behind countries like Thailand, Malaysia and Indonesia. Malaysia, for example, has spent 64 percent of its gross national product in 1982 for research and development as contrasted to the Philippines' 1.7 percentage. So, these are really the aspirations of the science and technology people so that our country's prestige will improve insofar as the scientific and technological community is concerned.

MR. DE CASTRO. Madam President.

MR. PADILLA. There is a difference between "high" and "highest" and I do not know if we can even go above the superlative "highest." I think Commissioner Aquino has some statistics on how often we have used the word "highest priority." It might confuse Congress on which among those is higher than the highest.

MR. DE CASTRO. Correction, Madam President, please.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. I would like to make a correction. I heard Commissioner Quesada state that the 1973 Constitution speaks of "high priority." There is no such thing in the 1973 Constitution. It states: "The State shall promote scientific research and invention. The advancement of science and technology shall have priority," not "high priority."

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Aquino be recognized for her statistics.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I share the sentiment of Commissioner Padilla although I am not really ready with the statistics. I think I am being set up by Commissioner Rama although I feel that whenever we use "highest," and we use it without restraint and discipline, we actually lessen the potency of our intent. For example, we intended that social justice be given highest priority; in the same vein we approved the Article on Education with assignment of highest priority in terms of budgetary allocations and here we would use again "highest" in terms of priority for research, science and technology. I do not intend to denigrate the importance of science and technology, but a word used often enough depreciates in terms of its effectiveness. It might depreciate the priority that we have assigned to the other more important concerns of the Constitution like social justice.

MS. QUESADA. But we certainly do not want science and technology to have less priority.

MS. AQUINO. Is it the committee's position that when we speak of budgetary allocations, science and technology should take priority over all others?

MS. QUESADA. We believe that all others are just as important; that one is not as less important as the other; that even our goals, for example, in social justice cannot be attained without the instrument of science and technology. For example, in health, we need science and technology.

MS. AQUINO. This is not just a case of semantics or lexicon. In terms of proper concerns for science and technology, I would raise, for example, serious questions about what is the ultimate goal of science and technology. We do not intend to protect science and technology as ends by themselves; rather we intend to protect, for example, the proprietary concerns of the State over patents, licenses, trade marks in the context of global technology transfer. In which case, the utmost concern for science and technology should more properly belong to the Article on National Economy and Patrimony.

MS. QUESADA. I do not agree. We do not agree that it belongs to the Article on National Economy and Patrimony because we are talking of science and technology in a broad sense, not just technology which is the application of what one knows in science. And that is one of the components of this particular provision, not just technology but the basic sciences.

MS. AQUINO. No, I speak of the anarchy of transnational corporations in patents and trademarks. I speak of the anarchy of transnational technology and monopoly of technology by multinational corporations. If we are agreed on that train of thought, then it is essentially a concern of national economy and development.

MS. ROSARIO BRAID. Madam President.

MS. AQUINO. In other words, science and technology should not be seen as an end in itself.

MS. QUESADA. No, as a matter of fact, we view this as a means to the bigger ends that we have cited in social justice, education and national economy, because without science and technology, our policies in national economy and patrimony will be toothless.

MS. ROSARIO BRAID. Madam President.

MS. QUESADA. So we have qualified the kind of science and technology that we need to develop in our country, and that is why we specified "self-reliant," "independent" and "appropriate" because we indeed recognize that problem of technology that has dominated and kept us backward.

MS. AQUINO. Madam President, I think I have been dragged into this vexed question by Commissioner Rama. But then my basic position is that I think we should adopt a sense of proportion in terms of prioritizing our concerns and the allocation of highest priority again to science might diminish the impact of the other priorities that we have assigned to social justice and education.

THE PRESIDENT. Can Commissioner Aquino suggest a term?

MS. AQUINO. I concur with Commissioner Padilla in his motion for the deletion of the word "highest."

MS. QUESADA. The committee strongly objects.

MR. RAMA. Madam President.

THE PRESIDENT. Excuse me, Mr. Floor Leader, may we allow first the committee to react.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. I share the sentiments of Commissioner Aquino, and as a member of the committee, I am quite willing to go as far as deleting the words "high priority." But to respond to the question on regulatory systems concerning technology transfer, if Commissioner Aquino will recall, we have that provision in the Article on National Economy and Patrimony and we justified its inclusion in view of the need to come out with a more effective regulatory system.

But Section 3 here addresses itself to the need to link the State or whatever agency of the State that has responsibility for science and technology to technology transfer concerns. So that, therefore, it cannot remain as an independent community of scholars away from the problems of political economy. And it is for this reason that we even had a resolution about technology transfer which, although it did not find itself here, found itself in the Article on National Economy and Patrimony. Also, it goes without saying that Section 3 addresses itself to the need to look at policies affecting transfer of technology and to adopt this technology so that it can be more relevant to our needs.

So these concerns of Commissioner Aquino are addressed in the Article on National Economy and Patrimony and this section on science and technology.

Thank you, Madam President.

MR. LAUREL. Madam President.

THE PRESIDENT. Commissioner Laurel is recognized.

MR. LAUREL. I just have one heavy concern. We have been putting up so many Mt. Everests that the weight of all these put together may bring them all down together.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. The Chair has been asking whether there are other alternative words so that we will not be repeating ourselves like a broken record. So, could the committee consider the words "TO GIVE PREFERENCE" because that is also top priority or "TO GIVE PRIMORDIAL IMPORTANCE"?

MR. VILLACORTA. "PRIMORDIAL" would be acceptable to the committee, although it sounds too poetic.

MR. RAMA. Or "SPECIAL PRIORITY."

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, I was about to suggest "SHALL ASSIGN SPECIAL PRIORITY."

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. We accept that to underscore that it needs special concern at a time when we are trying to catch up with our ASEAN neighbors.

MR. RAMA. Madam President, may I ask that Commissioner Suarez be recognized.

MR. MAAMBONG. So, the words "SHALL ASSIGN SPECIAL PRIORITY" are acceptable to the committee.

Thank you.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. This concern for words is very contagious. May I ask the members of the committee whether there is any difference between "invention" and "innovation" because the word "innovation" is rather new to me also.

MS. QUESADA. "Innovation," as distinguished from "invention," is a term that has acquired a special meaning of its own based on the experience of developed countries, especially the United States and Western Europe.

"Invention" is an original devise, contrivance or process that results from study and experimentation. Thus, an invention can only consist of an idea or a set of related ideas in the form of textual explanations and diagrams on paper or, perhaps, if the inventor is lucky, his invention may take the form of a laboratory-scale model.

But the important point is that it is in a form that is far from marketable; that is to say, it cannot be in a form useful or beneficial for society.

"Innovation" is the stage in the life cycle of a new product or process when it is introduced to the market.

MS. ROSARIO BRAID. Madam President, let me just respond in one sentence.

"Invention" is original; "innovation" is adopted. It could be a blend between export and indigenous materials. So these are the two attributes in terms of difference between an "invention" and "innovation."

MR. SUAREZ. Thank you.

So there is indeed merit in the utilization of the two words because they connote different meanings.

MS. ROSARIO BRAID. Yes.

MR. SUAREZ. I would like to clarify the uses of the words "indigenous" and "self-reliant." Do they not absorb or assimilate each other?

MS. QUESADA. Not necessarily.

MR. VILLACORTA. Not necessarily, Madam President, and Commissioner Quesada will explain.

MR. SUAREZ. Because the phrase "The State shall support indigenous, appropriate and self-reliant capabilities . . ." is used.

MS. QUESADA. We have already explained what we mean by "indigenous," but I would just like to give some definitions of "self-reliant" so it will be clear why we are using this.

MR. SUAREZ. Yes.

MS. QUESADA. The dictionary definition of "self-reliance" is reliance on one's own efforts and abilities. It assumes a special meaning when placed in the context of our national development. And, for the record, I would like to quote a discussion of self-reliance in the famous 1974 Mexico Declaration organized by the United Nations Environment Program and the United Nations Conference on Trade and Development:

> We believe that one basic strategy of development will have to be increased national self-reliance. It, thus, means self-confidence, reliance primarily on one's own resources— human and natural — and the capacity for autonomous goal-setting and decision-making. It excludes dependence on outside influences and in powers that can be converted into political pressure. It excludes exploitative trade patterns, depriving countries of their natural resources for their own development.

So, this actually implies why we would like to build our own capabilities so that we will not be forever dependent. We cannot achieve our goal as embodied in the Article on National Economy and Patrimony, which is a self-reliant, independent economy, effectively controlled by Filipinos, if we cannot start on this important aspect: science and technology.

MR. DE CASTRO. Madam President.

MS. ROSARIO BRAID. Madam President, in one sentence, let me just define it. "Indigenous" could be a local technology; "self-reliance" is the application of local human resources skill into the development of the indigenous technology. So, these are the two differences.

MR. SUAREZ. Therefore, "self-reliant" is different from "indigenous."

MS. QUESADA. Yes.

MR. SUAREZ. Thank you.

The last point that we would like to clarify would be on the use of the phrase "science and technology education, training and services." Are the words "training and services" not also assimilative of each other or is there a difference between "science and technology training" and "science and technology services"?

MS. QUESADA. There is a difference between "training" and "services." Science education would refer to the formal science education; whereas, training and services would be outside. It could refer to the nonformal kind of educational activities taking place in the work site or in the community settings.

MR. SUAREZ. Is this similar to medical internship?

MS. QUESADA. That is covered in the training and services.

MR. SUAREZ. Thank you for the clarification.

MR. RAMA. Madam President, may I ask that Commissioner de Castro be recognized.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Madam President.

Just a point of inquiry. I understand the committee accepts the words "SPECIAL PRIORITY" instead of "highest priority." Is that correct?

MS. QUESADA. Yes, Madam President.

MR. DE CASTRO. May I know the relationship between "high," "special" and "highest"? What is the meaning of "high priority," "highest priority" and "special priority"?

MR. BENNAGEN. May I just speak on the use of "special" in relation to "priority." Speaking of "high" and "highest," these need emphasis in the sense that, as pointed out in an earlier manifestation, we are way, way behind our ASEAN neighbors in relation to investments for research and development and science and technology. And we feel that in the overall configuration of budgetary priorities, there is a need to give special emphasis to these to enable us to at least catch up with our Third World neighbors.

MR. DE CASTRO. If the Commissioner were a congressman who is working on the budget of the nation and he sees "high priority" as against "special priority," which will he give the first priority?

MR. BENNAGEN. Of course, the Gentleman is asking a bias participant; I will give priority to "special."

MR. DE CASTRO. How about when he sees "higher priority"? To which will he give priority – the "special" or the "highest"?

MR. BENNAGEN. One still has to go into the overall configuration of the budgetary proposals.

MR. DE CASTRO. Madam President, we are talking of semantics here because "special priority" is never the equivalent of what we call "high" or "highest priority."

MR. BENNAGEN. It is not.

MR. DE CASTRO. I really cannot understand the meaning of "special priority."

MR. BENNAGEN. I think "special" here is relative under certain special circumstances; "high," "higher" and "highest" are relative in relation to an absolute scale of priorities.

MR. DE CASTRO. I support the deletion of "highest."

THE PRESIDENT. The committee has fully explained its intent in using these words. I think we can now proceed to vote on Section 1, if there are no more amendments.

MR. RAMA. There are some amendments by Commissioner Monsod.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. No, I just want a clarification because there was a question as to why training and services were included in the definition of "education." I believe Commissioner Quesada said that this includes nonformal education. I thought that when we defined "education" in the Article on Education, we already said, "it is formal, nonformal, informal, indigenous," and so on. Would that not then be encompassed? Unless there is some other meaning to it than just nonformal, then I will submit.

MS. ROSARIO BRAID. I think services would include extension services which belong to the area or domain of education. So, training will be different from services since extension services do not necessarily fall under training.

MS. QUESADA. And in addition, training would really be more skill intensive. There is a specific objective of developing skills among its educands or trainees.

MR. RAMA. Commissioner Maambong would like to be recognized.

MR. MAAMBONG. Just one clarification, Madam President. Commissioner Quesada made the definition of "invention" which to me is a very good definition. But Commissioner Romulo and I would just like to find out whether that definition is also supportive of the definition under the law, especially under the patent law, RA 165, and copyright law, P.D. No. 49, referring to inventions and intellectual properties.

MS. QUESADA. Yes, that would be included.

MR. MAAMBONG. So, it does not detract from the legal definition; it actually supports.

MS. QUESADA. It supports.

MR. MAAMBONG. Thank you very much, Madam President.

MR. RAMA. May we hear the formulation, as amended, and finally accepted by the committee so we can take a vote, Madam President?

THE PRESIDENT. Commissioner Quesada will please read.

MS. QUESADA. Section 1 will read: "Science and technology are essential for national development AND PROGRESS. The State shall ASSIGN SPECIAL priority to research and development, invention, innovation and their utilization; and to science and technology education, training and services. IT shall support indigenous, appropriate, SELF-RELIANT, scientific and technological capabilities and THEIR application to the COUNTRY'S productive systems AND NATIONAL LIFE."

MR. PADILLA. Madam President.

MS. AQUINO. Madam President.

MR. PADILLA. Before we vote, I would ask for a vote on my proposed amendment which is simply to delete the word "highest."

THE PRESIDENT. That was changed to "SPECIAL." The Chair thought that that was already acceptable.

MR. PADILLA. Yes, but I have not accepted it.

THE PRESIDENT. The word "highest," I think, was changed to "SPECIAL."

Does Commissioner Padilla insist?

MR. PADILLA. It was the committee who accepted the amendment and I think the committee refused my proposed amendment which is very simple – to delete the word "highest." That should be submitted to the body for a vote.

VOTING

THE PRESIDENT. As many as are in favor to delete the word "highest" from Section 1 on science and technology, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 18 votes in favor and 9 against; the amendment is approved.

MR. MAAMBONG. Madam President, I will now formally present the substitution of the word "highest," which has been deleted, with the words "ASSIGN SPECIAL," so that it will read "shall ASSIGN SPECIAL."

VOTING

THE PRESIDENT. As many as are in favor of the amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 9 votes in favor, 12 against and 1 abstention; the amendment is lost.

Will Commissioner Quesada read the sentence now?

MS. QUESADA. "The State shall give priority to research and development."

VOTING

THE PRESIDENT. As many as are in favor of Section 1 as read, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 24 votes in favor, one against and two abstentions; Section 1, as amended, is approved.

MR. RAMA. Commissioner Davide would like to be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Just for the record. Commissioners Sarmiento and Nolledo are my coauthors on the amendment on the first sentence of Section 1.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, just for the record also. With the deletion of the words "highest" and "special," is the committee's interpretation correct that we are nonetheless advising the government to give budgetary priority to science and technology? In other words, the intent of the committee is nonetheless reflected in the approved section with respect to giving budgetary preference to science and technology.

MR. RAMA. There seems to be no objection from the body. I think that should be the interpretation that we must accept.

THE PRESIDENT. It is quite clear, Mr. Chairman, from the interpellations and statements here while discussing Section 1.

MR. RAMA. Madam President, may I ask that Commissioner Sarmiento be recognized to amend Section 2.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MS. QUESADA. Can we just read Section 2, Madam President?

THE PRESIDENT. Yes, please read Section 2.

MS. QUESADA. Section 2 reads:

> Scholarships, grants-in-aid or other forms of incentives shall be provided deserving science students, scientists, technologists and specially-gifted citizens.

MR. SARMIENTO. Madam President, mine is an amendment by addition. After the word "scientists" and before the word "technologists," add the word "INVENTORS."

Madam President, the word "INVENTORS" is used locally and nationally. As a matter of fact, we have the National Inventors' Week. And the World Intellectual Property Organization uses the word "INVENTORS." Will that be acceptable to the committee?

MS. QUESADA. Accepted, Madam President.

MR. SARMIENTO. Then another, Madam President. My amendment, cosponsored by Commissioner Monsod, is the deletion of the words "deserving science students."

May I briefly explain, Madam President.

Our position is that "specially-gifted citizens" would cover "deserving science students."

MS. QUESADA. This is a special request from the science and technology authorities. They felt that we must really support deserving science students because there are many who are discovered to be very talented. Some are even what we call "very gifted students" who, because of economic difficulties, are unable to avail of this important education.

So, this has been a special request to give push to this kind of program which the government is now launching.

MR. SARMIENTO. If that is the intent, this Member then would wish to withdraw his amendment.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. When we say "technologists," would that include "food technologists"?

MS. QUESADA. Yes, Madam President.

MR. MONSOD. But is this not already covered in the section on national economy where we talked about a national pool of entrepreneurs, scientists, managers, and so on? Would this be complementary to that?

MS. QUESADA. This would be complementary, Madam President.

MR. MONSOD. This is not a redundancy?

MS. QUESADA. No, this is not. It is actually to highlight that in this particular section because it is not just going to be in the national economy that we need these technologists. We need technologists for education. So, it is really an implementation of that concept embodied in the Article on National Economy and Patrimony.

MR. OPLE. Madam President.

MR. RAMA. Commissioner Ople would like to be recognized.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you, Madam President.

It is true that Section 2, on scholarships, grants or other forms of incentives, is not necessarily a duplication of two previous provisions, one of which was referred to by Commissioner Monsod wherein the State shall promote the development of a national talent pool of entrepreneurs, scientists, technicians, high-level manpower. Of course, there is another one under the Article on Education also consisting of scholarships and grants-in-aid for students in general, some of whom may actually be scientists, technologists and gifted citizens. I am not proposing that this be deleted. However, will the committee consider having a first sentence, which may be more dynamic in intent and application, recognizing that increasingly it is not really government revenues that fund research and development?

In advanced countries, it is taken for granted that more than 80 percent of all funds for research and development are actually spent by the private sector. And, therefore, having in mind this proportion that the private sector can have in financial terms much wider exposures than the increasingly scarce public fund for supporting research and development, may I propose the following as the first sentence of Section 2: "THE STATE MAY BY LAW PROVIDE INCENTIVES INCLUDING TAX DEDUCTIONS TO ENCOURAGE PRIVATE PARTICIPATION IN PROGRAMS OF BASIC AND APPLIED SCIENTIFIC RESEARCH AND THE DEVELOPMENT OF USEFUL INVENTIONS," and then it will be followed by "scholarships, grants or other forms of incentives."

The proposed new first sentence also meets the concern expressed by Commissioner Sarmiento for the recognition of inventors, except that here it appears as useful inventions.

MS. ROSARIO BRAID. Clarificatory question, Madam President. Would the last sentence in Section 3 include Commissioner Ople's concept of participation of the private sector? It reads:

> The widest participation of the private sector and community-based organizations in the generation and utilization . . .

MR. OPLE. Yes, I see this and it does reflect part of the intent behind this proposed amendment. But earlier, I talked about giving emphasis on private sector participation in terms of research and development because proportionately, the potential for this is much larger than in merely granting scholarships, grants or other forms of incentives to scientists, technologists and the gifted young. This has a multiplier effect in terms of drafting the entire private sector to give more money to research and development which might have immediate concrete applications to the growth of production.

MS. ROSARIO BRAID. Madam President, this is just my personal stand: Could not science and technology be included in that provision on education which refers to tax deductions and exemptions given to education, which includes formal and nonformal education? Could we just add science and technology in that phrase, Madam President?

MR. OPLE. I think the schools constitute a relatively minor component of the total R & D field – research and development. And as I said, the State, instead of spending scarce public money on R & D, is increasingly establishing policies that release a great stream of funds from the private sector in order to support R & D. Of course, it follows that tax incentives can be given to them – I am not speaking of exemptions, Madam President; I am speaking of deductions that are proportionate to certain levels of R & D expenditure by private companies. Of course, this does not foreclose the possibility that the State can be in a joint venture through one of its instrumentalities for R & D. We do not have much money for direct subsidies. If a constitutional policy can create a new configuration so that the private sector spends its own funds for R & D, according to standards prescribed by our scientific authorities in the government, then this will multiply financial commitments to R & D without having to spend more government money.

MS. QUESADA. May we have the proposed formulation?

SUSPENSION OF SESSION

MR. RAMA. Madam President, I request a two-minute suspension.

THE PRESIDENT. The session is suspended.

It was 11:27 a.m.

RESUMPTION OF SESSION

At 11:34 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. The committee and the proponents, Madam President, have reached an understanding on a new formulation.

I ask that Commissioner Ople be recognized.

MR. OPLE. After a conference with the committee and some other proponents, Madam President, this is now the final proposed text. The first sentence of Section 2 shall read as follows: "THE STATE MAY BY LAW PROVIDE FOR INCENTIVES INCLUDING TAX DEDUCTIONS TO ENCOURAGE PRIVATE PARTICIPATION IN PROGRAMS OF BASIC AND APPLIED SCIENTIFIC RESEARCH. Scholarships, grants-in-aid or other forms of incentives MAY BE GIVEN TO scientists, technologists and the gifted YOUNG." This proposal is coauthored by Commissioners Guingona and Rama.

THE PRESIDENT. How about the proposed amendment of Commissioner Sarmiento? Where does it come in?

MR. OPLE. Maybe it has been withdrawn temporarily until we get to the appropriate place later, Madam President.

MR. SARMIENTO. Madam President, I did not withdraw the amendment; it was accepted by the committee – after the word "scientists," add "INVENTORS."

MS. QUESADA. Madam President, we have accepted this proposed amendment by Commissioner Ople, but Commissioner Sarmiento's proposal will still be contained in the succeeding sentence.

MR. SARMIENTO. Thank you.

MR. RAMA. We are ready to vote, Madam President.

THE PRESIDENT. Will Commissioner Quesada read the amendment?

MS. QUESADA. "THE STATE MAY BY LAW PROVIDE FOR INCENTIVES INCLUDING TAX DEDUCTIONS TO ENCOURAGE PRIVATE PARTICIPATION IN PROGRAMS OF BASIC AND APPLIED SCIENTIFIC RESEARCH."

THE PRESIDENT. What follows this?

MS. QUESADA. May we have this first sentence approved by the body first, Madam President.

THE PRESIDENT. All right.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized. Is the Gentleman going to introduce an amendment with respect to the first sentence that was read?

MR. DAVIDE. On the Ople amendment, Madam President.

THE PRESIDENT. The one that was just read by Commissioner Quesada?

MR. DAVIDE. Yes, Madam President.

THE PRESIDENT. Please proceed.

MR. DAVIDE. May I propose "CONGRESS MAY" in lieu of "The State may by law"?

THE PRESIDENT. Is that acceptable to Commissioner Ople?

MR. OPLE. I accept the amendment, Madam President, but the committee has now the jurisdiction.

THE PRESIDENT. Is that accepted by the committee?

MS. QUESADA. We accept, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of this first sentence of Section 2, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 27 votes in favor; 1 against and 1 abstention; the first sentence of Section 2 is approved.

May we have the second sentence as formulated by the committee.

MS. QUESADA. The second sentence of Section 2 now reads: "Scholarships, grants-in-aid or other forms of incentives shall be provided DESERVING SCIENCE STUDENTS, scientists, INVENTORS, technologists and specially-gifted citizens."

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. May I introduce an amendment by adding the word "RESEARCHERS" after the word "INVENTORS"? May we know the reaction of the committee, Madam President?

MS. QUESADA. We accept, Madam President.

MR. MAAMBONG. Thank you.

MR. OPLE. Madam President, may I just make a brief manifestation concerning the first sentence that has been approved. The intent of the proponent – and I hope that is also the intent of the committee and the Commission – is that tax deductions will not preclude tax exemptions.

Thank you.

MS. QUESADA. In our support for this particular formulation, we do recognize the fact that in the Philippines private industry contributes very little to R & D, a mere 15 percent of outlays and personnel. For example, a survey in 1981 identified 187 private firms engaged in R & D among the country's top 1,000 corporations. So we feel that this can be an incentive for private enterprises to engage more in R & D which is really useful for improving our economy so we can become self-reliant and independent.

MR. RAMA. Madam President, we are now ready to vote on the second sentence.

VOTING

THE PRESIDENT. As many as are in favor of the second sentence of Section 2, as read by Commissioner Quesada, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

Is the Floor Leader voting against? The Secretariat would like to know.

MR. RAMA. I am in favor, Madam President.

THE PRESIDENT. The results show 28 votes in favor and none against; the second sentence is approved.

MR. RAMA. Madam President, I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Does that cover the whole Section 2 now?

MS. QUESADA. Yes, Madam President, that is Section 2; two sentences now have already been approved.

MR. RAMA. We go to Section 3. There was an amendment presented earlier by Commissioner Davide and which was accepted by the committee. Will Commissioner Quesada please read the amendment of Commissioner Davide so we can go to the next amendment.

MS. QUESADA. "The State shall promote and support the transfer and adaptation of technology from diverse sources, where such technology is responsive and appropriate to society's needs and obtained at equitable terms. IT SHALL ENCOURAGE THE widest participation of the private sector and community-based organizations in the generation and utilization of science and technology." This has been amended by Commissioner Davide.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I have consulted the committee and I intend to harmonize this portion of Section 3 with Section 12 of the proposed Article on National Economy and Patrimony which states: "The State shall encourage appropriate technology and regulate its transfer for the national benefit." I suggest that we amend this to say: "The State shall promote and REGULATE the transfer and adaptation of technology from ALL sources for THE NATIONAL BENEFIT." That is the first sentence.

MS. QUESADA. Madam President, we would like to find out why Commissioner Monsod has already deleted the other terms like "where such technology is responsive and appropriate to society's needs, and obtained at equitable terms."

MR. MONSOD. Madam President, if we review the minutes of the Journal on the discussion of the Article on National Economy and Patrimony, we can see that when we say "national benefit," that already assumes that it must be "responsive and appropriate to the needs of the country," and that the terms must be "equitable." We are also talking about the national benefit and this would harmonize it with that particular provision in the Article on National Economy and Patrimony. Also, let us put in the word "REGULATE" because that is quite important when we are talking about technology transfer.

MS. QUESADA. Would regulation already include setting up of equitable terms?

MR. MONSOD. Yes, I think that was included in the discussions. That is the reason we put that word. If I remember right, the Commissioner was even one of the proponents of that sentence on technology transfer.

MS. ROSARIO BRAID. That was thoroughly discussed.

MR. MONSOD. Yes.

MS. ROSARIO BRAID. And I gave the explanatory notes in terms of the need to strengthen regulatory agencies, such as the Technology Transfer Board.

MR. MONSOD. Precisely, for that purpose.

MS. QUESADA. And would "diverse sources" already be covered by the term "all sources"?

MR. MONSOD. Yes.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, this is a sort of a prior amendment on line 1: "The State shall promote and PROTECT INTELLECTUAL PROPERTY, support and regulate . . ."

MS. QUESADA. Madam President, would Commissioner Padilla harmonize his proposal with another proposal which has been submitted to us and has something also in the protection of intellectual property? Commissioner Suarez has also a proposal. So, would Commissioner Padilla postpone submission because the proposal of Commissioner Suarez would really blend with his proposal?

MR. PADILLA. Yes, Madam President.

MR. MONSOD. Madam President, I believe that the ideas of Commissioners Padilla and Suarez deserve a separate paragraph.

MS. QUESADA. Yes, we agree, Madam President.

MR. OPLE. Yes, but can we relocate that?

MR. PADILLA. I have no objection to blending my proposal with that of Commissioner Suarez' because I did not see his proposal, but it is important to encourage, protect and promote intellectual property. This is a title in the Civil Code where the term "intellectual property" covers inventions, patents, trademarks and other forms of intellectual property.

MS. QUESADA. We do share the concern of the Commissioner.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Under Section 3(d) on page 7, it is already mentioned that:

> The State shall protect and secure for a limited period the exclusive rights of inventors, artists and other intellectuals to their inventions and artistic and intellectual creations.

This is the protection of intellectual property already contemplated by the committee; so, it could be repetitious.

MS. QUESADA. Yes, that can also be a decision that the body will make, whether or not they would keep that here in the science and technology section or have that transferred or kept in the arts and culture section to avoid duplication.

MR. OPLE. Madam President, I just thought I would ask the committee whether in their view this should belong to science and technology or to arts and culture.

MS. QUESADA. Madam President, since it encompasses also creative work, maybe it should be in the last section so that it would include inventions, scientific researches and also cultural works.

MR. OPLE. Yes. I think by the standards of WIPO or the World Intellectual Property Organization the proper place for this should be in the arts and culture section, Madam President.

MS. QUESADA. We submit that it should be kept there.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended to give time to the Commissioners concerned to confer with the committee.

It was 11:48 a.m.

RESUMPTION OF SESSION

At 11:57 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, there is a revised formulation accepted by the committee. May I ask that Commissioner Monsod be recognized first.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I would like to defer to Commissioner Quesada.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

Before Commissioner Quesada reads the reformulated provision, I would like to propound certain questions pertinent to the formulated provision to any member of the committee.

THE PRESIDENT. Please proceed.

MR. NOLLEDO. Thank you, Madam President.

It has been the traditional concept that when we talk of technology, we talk principally of production. But I was informed that in many countries of the world, 70 percent of the cost of industrial production refers to information-processing activities. So it seems to me that when we talk of technology, we do not talk only of production but also of information services. Am I right?

MS. ROSARIO BRAID. Madam President, Commissioner Nolledo is right. If we have to keep up with the information age, our science and technology activities must necessarily focus on the information industry; and this means the need for regulatory systems, more systematic production and distribution systems and utilization systems; this also refers to more R & D. The document of the Commissioner says that in the late 70s, 30 percent of the global budget was earmarked for communication technology. It must have gone up now to about 50 percent.

I think we should be anticipatory in terms of attending to the needs of communication technology, and this is research on the potential impact, planning for the consequences and coming up with alternative systems in communication technology before we are swamped, and which might lead to some undesirable consequences, like cultural erosion or greater dependency on the more productive countries. This also refers to the R & D budget that has been skewed towards militarization, manufacture of arms and nuclear energy, so that we can ask the question raised by Schumacher, author of the book *Small is Beautiful* – perhaps, the most monumental book on what science and technology is for. And this he linked to transcendental ends. Therefore, we cannot speak of science and technology without linking it to these transcendental ends of making mankind free in terms of peace and international understanding; this means that science should not be developed for its own sake, but also for intellectual search for knowledge.

MR. NOLLEDO. Am I right if I say that technology– modern technology – plays a role in the waging of war or in the maintenance of peace in the world?

MS. ROSARIO BRAID. That is right and this is really why I cited Schumacher's concern in terms of our need to insure that we do not set up institutions, researches that would lead more to continuing escalation of war.

MR. NOLLEDO. Thank you, Madam President.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Underneath the seemingly casual exchange between Commissioner Rosario Braid and Commissioner Nolledo is actually a jugular issue in science and technology with respect to developing countries.

This debate began when John Jack Shriver wrote his now famous book, *The World Challenge*, the materials of which came from Japan, especially from Tosho San who was the chairman of the Mitsui Institute of Science and Technology. In this thesis, Shriver and Tosho claim that it is possible for the developing world to leapfrog the messier stages of industrialization by switching to information, science and technology. This is what excites a lot of mankind today – the so-called new frontiers of science and technology in terms of what Commissioner Rosario Braid called the burgeoning information industry. Japan routinely outperforms the United States and Europe in productivity because of the mastery of this new science.

I was in the Soviet Union six months ago, Madam President, and everywhere we went, they talked about how the Soviet Union's civilian economy has lagged far behind the Western industrialized economies for only one reason: all of the Soviet Union's high technology was being directed toward military front at the expense of popular computer education for the studentry of the Soviet Union. For that reason, the Soviet Union has built into its five-year plan the production of two million micro-computers only for the schools of the Soviet Union.

Therefore, I was wondering whether the committee would think it proper to say something about this issue in the section on science and technology, or whether we have already missed the opportunity when we were talking about the Article on the National Economy and Patrimony. Commissioner Bennagen knows a lot about this issue. He objects, I believe, to a leapfrogging of technology, but I just brought it up. If it is not taken up, I do not mind, but it probably will form part of the backdrop to the debates on science and technology.

Thank you, Madam President.

MR. RAMA. Madam President, the body is now ready to vote.

THE PRESIDENT. May we have first the new formulation? Does it combine the Monsod-Padilla-Suarez amendments?

MS. QUESADA. Madam President, it does not. The opinion was that the proposal of Commissioners Padilla and Suarez deserves a separate section.

THE PRESIDENT. I see.

MS. QUESADA. So, Section 3 now reads, after the amendment of Commissioner Monsod: "The State shall promote and REGULATE the transfer and adaptation of technology from ALL sources for THE NATIONAL BENEFIT."

We just like to put on record that the words "national benefit" would actually encompass the phrase "responsive and appropriate to society's needs, and obtained at equitable terms." This is one of the problems in the transfer of technology. We have placed here the word "adaptation" because we feel that it should not just be complete transplanting of foreign technology which may be inappropriate, expensive, unaffordable and difficult to maintain in our own situation. So, this would also include such concepts as "equitable terms" which we understand have been fully discussed in the Article on National Economy and Patrimony. We feel again that our State should regulate this particular transfer of technology.

The committee therefore approves this particular reformulation.

THE PRESIDENT. Does the committee desire to have a vote on this first sentence?

MS. QUESADA. Yes, Madam President.

THE PRESIDENT. Is there any objection to this particular portion of Section 3, as read by Commissioner Quesada? *(Silence)* The Chair hears none; the amendment is approved.

MS. QUESADA. Then the second sentence of the same section reads, and this is after the reformulation of Commissioner Davide: "IT SHALL ENCOURAGE THE widest participation of the private sector and community-based organizations in the generation and utilization of science and technology."

MR. RAMA. Madam President, Commissioner Monsod wishes to comment on the second sentence.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I just wanted a clarification. In the light of the amendment to Section 2 by Commissioner Ople, where we are talking about incentives to the private sector for both general and applied science and technology, would this not overlap?

Perhaps, if we read Commissioner Ople's formulation and thereafter read this, we will see the redundancy and reconcile both.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. I do not think there is any redundancy in this. The phrase "widest participation of private sector and community-based organizations" would refer to such activities as their involvement through consultative mechanisms in agreeing on a consensus on priorities in technology, and their participation in all stages of technology development from generation, packaging, to even utilization, providing feedback on what works and what does not work.

In the formation of science clubs, for instance, it has been shown that the science clubs are the most useful and more active members of the science community here. There are private initiatives. Community-based organizations would be grass-roots organizations involved in small-scale science and technology development. For instance, at one time, former Minister Javier was interested in supporting foundation-assisted projects in blacksmithing and in organizing rice processing – in other words, appropriate technology within community situations like in Pila, Bulacan and other pilot areas.

MR. MONSOD. But is that not in Section 1 where we talk about indigenous, appropriate and self-reliant scientific and technological capabilities?

MR. OPLE. Madam President, may I help reconcile this difference.

Will it ease the mind of Commissioner Monsod if we just change "private sector" to "private GROUPS"? I do not know if the committee will be open to also include "LOCAL GOVERNMENTS."

The reason I speak of local governments and private groups, Madam President, is that of some extensive experience I have had in the countryside where traditional home industries die a slow and agonizing death because of the absence of even elementary technology. May I cite an example. I was in Lucban, Quezon and may I report to the Commission that the famous buntal hat industry is now dying. The reason is that the new generation of women in Lucban, Quezon, and this is also true of Baliuag, Bulacan, no longer would like to take up the historic and traditional skills of their grandmothers because the remuneration is so low. A girl in Lucban who is working on a buntal hat can finish only two hats a week – iyong paglalala, kung tawagin – and she earns only P27 for each hat. A Taiwanese expert to whom I raised this issue told me that in Taiwan, the productivity of the ordinary handicraft worker on hats would be ten times higher and, therefore, the income per piece and collectively would be ten times higher. And yet the difference involved is merely the use of a hand tool. As a matter of fact, I thought of sending a commando team to Taiwan to look for this technology and bring it back, even if it took stealing that, in order to save a cherished historic industry. The mayor of Lucban, Mayor Jacilles, was so disappointed. He appealed to the NIST, to the NMYC and to everybody but no hand tool appropriate for raising the productivity in hat weaving ever materialized.

That is the measure of the frustration of some of our local governments wanting to save local industries which are dying. And so, I would like to propose that the committee consider the addition of "LOCAL GOVERNMENTS" for a change and to highlight their new role in economic development through self-reliance and independence, and then "private GROUPS" instead of "private sector."

Thank you.

MS. QUESADA. Madam President, we accept the amendment of Commissioner Ople to include local governments in addition to private groups and community-based organizations in the generation and utilization of science and technology. So, actually, Madam President and Commissioner Monsod, there is a difference between the formulation under consideration and the amendment of Commissioner Ople on the second sentence of Section 2 because his amendment only applies to research and development activities of private organizations which shall receive this kind of incentive from the State. So, we feel this is a very important component of the science and technology development in the country.

MR. MONSOD. I submit, Madam President.

MR. RAMA. The body is now ready to vote, Madam President.

THE PRESIDENT. Will Commissioner Quesada please read the proposed amendment.

MS. QUESADA. "IT SHALL ENCOURAGE the widest participation of the private GROUPS, LOCAL GOVERNMENTS and community-based organizations in the generation and utilization of science and technology."

THE PRESIDENT. Is there any objection to the second sentence of Section 3, as read by Commissioner Quesada? *(Silence)* The Chair hears none; the amendment is approved.

MR. RAMA. Madam President, there is just one additional section which has been accepted by the committee.

THE PRESIDENT. So, Section 3 is approved; there is nothing more to add to it.

MR. RAMA. There is nothing more to Section 3 but there is a Section 4 proposed by Commissioners Suarez and Padilla, which has been accepted by the committee.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

The placing of this proposal may not really be appropriate either in the arts and culture section or in the science and technology section, but we leave that to the discretion of the members and to the Style Committee later on, Madam President. Actually, we have submitted two proposals; the first proposal reads: "THE STATE SHALL PROTECT ALL INDIGENOUS INVENTIONS, DISCOVERIES, AND INTELLECTUAL PROPERTY AND ARTISTIC WORKS WHICH SHALL BE PATENTED, ADOPTED, DEVELOPED AND PROMOTED FOR THE BENEFIT OF THE FILIPINO PEOPLE."

The second proposal reads: "THE STATE SHALL ADOPT MEASURES FOR THE ADVANCEMENT, MOBILIZATION AND UTILIZATION OF SCIENTIFIC KNOWLEDGE AND TECHNOLOGICAL RESOURCES TO FURTHER OUR NATIONAL DEVELOPMENT."

After conferring with Vice-President Padilla, we have come up with the following proposal merging the two: "THE STATE SHALL ADOPT MEASURES FOR THE ADVANCEMENT, MOBILIZATION AND UTILIZATION OF SCIENTIFIC KNOWLEDGE AND TECHNOLOGICAL RESOURCES TO FURTHER OUR NATIONAL DEVELOPMENT. IT SHALL PROTECT INTELLECTUAL PROPERTY, PARTICULARLY WHEN BENEFICIAL TO THE FILIPINO PEOPLE."

THE PRESIDENT. Is this accepted by the committee?

MS. QUESADA. We accept, Madam President.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, may I propound just one question to the proponent?

THE PRESIDENT. Please proceed.

MR. MAAMBONG. I understand the property that the proponent seeks to protect is what is known in legal parlance as "incorporeal special personal properties." Is that it?

MR. SUAREZ. It includes all of these. When we use the term "INTELLECTUAL PROPERTY," we suggested the use of the words like "indigenous inventions, discoveries and artistic works," but our Vice-President feels that they are all included in the definition of the term "INTELLECTUAL PROPERTIES" because these are creative products.

MR. MAAMBONG. Yes, and the Vice-President made reference to the Civil Code. But at the moment, I am sure that the Gentleman is aware that we have already laws to this effect. We have, for example, the law on patents (RA 165); the law on trademarks, trade names, service marks and unfair competition (RA 166), both of which were passed in 1947. We have in fact a comparatively new law – the law on copyright, which is P.D. No. 49. We also have the New Process of Discovery Act, RA 1287, and the Business Name Law, which is RA 3883. In spite of these laws, we would like this proposal to be constitutionalized.

MR. SUAREZ. That is right, because all of these are on record. But what we are most interested in is the protection of these intellectual creations. Also, they should be for the benefit of the Filipino people.

MR. MAAMBONG. Thank you.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. It seems to me that what we are talking about regarding technological resources and scientific knowledge are already in Section 1 which talks of scientific and technological capabilities. We will be repeating ourselves here. And then when we talk about "intellectual property," that is also in the proposal of the committee under arts and culture which says:

> The State shall protect and secure for a limited period the exclusive rights of inventors, artists and other intellectuals to their inventions and artistic and intellectual creations.

Is that not the same thing, Madam President?

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Would Commissioner Suarez entertain a question?

Would this provision mean having institutions and agencies that would advance, mobilize and utilize technology? Is the Commissioner referring to the need for either organizing or strengthening existing agencies that are undertaking this? An example is the National Science and Technology Authority which is undertaking this objective.

MR. SUAREZ. Yes, that is why we are suggesting that the State should adopt these measures in order that we can advance, mobilize and utilize all of these knowledge, technological resources and intellectual creations.

THE PRESIDENT. What is the reply or reaction of Commissioner Suarez to Commissioner Monsod's remarks?

MR. SUAREZ. Madam President, we predicated our presentation of this consolidated proposal with the statement that it could either be placed in the section on science and technology or in the article or section on arts and culture, because it could apply to both or either of them.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. The majority of the committee feel that we should transfer the section mentioned by Commissioner Monsod to Section 4 under science and technology because the earlier we stipulate this protection in the article, the better.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. There are two parts to the proposal of Commissioners Suarez and Padilla. The first part refers to the measures to advance, mobilize and utilize scientific knowledge and technological resources for national development. I submit to the idea of highest priority given to research, science and development, the idea being that the State shall support indigenous, appropriate and self-reliant scientific and technological capabilities. The application of these implies and assumes that there will be effective measures to give realization to all of these. I was wondering if we need a separate section to say the same thing.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. We agree with Commissioner Monsod that the second part of the proposal of Commissioners Suarez and Padilla would actually be redundant because it is already covered in the earlier section. So, would the Commissioners agree to incorporate the concept of intellectual property in the first section that has been proposed?

MR. SUAREZ. In other words, insofar as the first sentence is concerned, does the committee feel that it could be assimilated within the provisions of Section 1?

MS. QUESADA. Yes, it is already actually assimilated as the function. What the Gentleman has stated here is the functions of science and technology development.

MR. SUAREZ. Without prejudice to the second sentence.

MS. QUESADA. Yes.

SUSPENSION OF SESSION

MR. SUAREZ. It means providing protection for intellectual property for the benefit of the Filipino people.

May we ask for a suspension of the session, Madam President?

THE PRESIDENT. The session is suspended.

It was 12:22 p.m.

RESUMPTION OF SESSION

At 12:28 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. TADEO. Madam President.

MR. RAMA. Commissioner Tadeo would like to be recognized.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Mayroon lang po akong nais linawing totoong napakahalaga. Ang dahilan ng pagbagsak ng industriya ng bigas ay bunga ng tinatawag sa UP Los Baños na "genetic erosion" – ang ating mga dalawang libo hanggang tatlong libong binhi ay nakuha ng mga multinationals kahit na ang tungkulin ng UP breeding plant ay ang pangalagaan ang genetic materials na ito. Ngunit nang dumating po ang International Rice Research Institute (IRRI) sa Pilipinas, naikulong nila sa Seed Bank ang ating mga binhing matitibay sa peste at sakit – ito ang mga binhing mayroong genetic resistance. Pagkatapos, binigyan nila tayo ng isang uri ng binhi na masasakitin upang tumugon sa mga produkto ng multinationals. Nawalan tayo ng tinatawag na proteksiyon para sa ating genetic materials.

Nais ko lamang linawin, Madam President, kung sakop ng probisyong ito ang proteksiyon upang mapangalagaan ang ating genetic materials. Ito ang dahilan ng pagbagsak mismo ng industriya ng palay, kaya nais ko lang linawin ang bagay na ito.

MR. SUAREZ. Kasali po iyan sa definition ng "intellectual property and creations."

MR. TADEO. Pangalawa kong katanungan: Nalathala itong balita sa *Malaya* noong August 15, 1985: "Lopsided trade-off":

> Los Baños, Laguna – Valuable technological findings of government researchers are being handed practically free to multinational corporations.
>
> Likewise, private companies having contracts with the National Science and Technology Authority (NSTA) can use NSTA-developed technology worldwide without additional payment to the Philippine government. All they have to pay for is the actual cost of the research.
>
> Concern was raised by science journalists over the contract research as at least four of the companies currently funding NSTA researchers are subsidiaries of multinational corporations . . .

Wala pong proteksiyon ang ating mga researches. Nais ko pong linawin kung ito ay nasakop din sa seksiyong ipinapasok ni Commissioner Suarez.

MR. SUAREZ. Tama po iyon, kayat idinagdag natin ang pariralang ito: "PARTICULARLY WHEN BENEFICIAL TO THE FILIPINO PEOPLE." Ito ang magbibigay proteksiyon sa ating mga researches.

MR. RAMA. Madam President, we are now ready to vote on the agreed formulation.

THE PRESIDENT. Let us have first what is going to be voted upon.

MR. SUAREZ. After conferring with Commissioners Padilla and Monsod, together with the members of the committee, we have reformulated this particular provision and may we request Commissioner Quesada to read it.

MS. QUESADA. Madam President, this will now serve as an omnibus provision because this will cover the provision that was supposed to be in the article or section on arts and culture; it will thus read: "THE STATE SHALL PROTECT AND SECURE THE EXCLUSIVE RIGHTS OF SCIENTISTS, INVENTORS, ARTISTS AND OTHER GIFTED CITIZENS TO THEIR INVENTIONS, ARTISTIC AND INTELLECTUAL PROPERTY AND CREATIONS, PARTICULARLY WHEN BENEFICIAL TO THE PEOPLE."

THE PRESIDENT. Will this be a new section on science and technology or on arts and culture?

MS. QUESADA. Actually it will not fall under science and technology, Madam President, but will be an omnibus provision so that it will cover also what was supposed to be covered in the section on arts and culture.

MR. NOLLEDO. Madam President, may I ask a few questions?

THE PRESIDENT. Please proceed.

MR. NOLLEDO. Does the Commissioner mean to say that the committee has superseded the proposed provision which is Section 3(d)? It reads:

> The State shall protect and secure for a limited period the exclusive rights of inventors, artists and other intellectuals to their inventions and artistic and intellectual creations.

MS. QUESADA. Yes.

MR. NOLLEDO. I am worried about the wordings in the latter part. Can we not put after "GIFTED CITIZENS" the phrase "TO THEIR INTELLECTUAL CREATIONS"? When we talk of intellectual creations, we can quote Article 721 of the Civil Code which states:

> By intellectual creation, the following persons acquire ownership:
>
> 1) The author with regard to his literary, dramatic, historical, legal, philosophical, scientific or other work;
> 2) The composer as to his musical composition;
> 3) The painter, sculptor, or other artist, with respect to the product of his art;
> 4) The scientist or technologist or any other person with regard to his discovery or invention.

To shorten that provision, I recommend very strongly, Madam President, that after "GIFTED CITIZENS" we add "TO THEIR INTELLECTUAL CREATIONS," instead of using "inventions and artistic and intellectual creations."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Can we retain the word "property" so that the proposal will read: "TO THEIR INTELLECTUAL PROPERTY AND CREATIONS"?

MR. NOLLEDO. I would agree with that, because intellectual creation and intellectual property are synonymous.

MR. MONSOD. Thank you.

MR. PADILLA. Madam President, I am very much interested in using the term "INTELLECTUAL PROPERTY" because as recited by Commissioner Nolledo, it does not only include inventions through science and technology but also paintings, sculptures and musical compositions.

MS. QUESADA. With that understanding, Madam President, we accept the amendment to delete the words "INVENTIONS" and "ARTISTIC" so that the amended provision will now read: "THE STATE SHALL PROTECT AND SECURE THE EXCLUSIVE RIGHTS OF SCIENTISTS, INVENTORS, ARTISTS AND OTHER GIFTED CITIZENS TO THEIR INTELLECTUAL PROPERTY AND CREATIONS PARTICULARLY WHEN BENEFICIAL TO THE PEOPLE."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, this provision, therefore, will be a perpetual guarantee. It will not be for a limited period as may be provided by law. So, may I propose that at the end we include the following: "FOR A LIMITED PERIOD AS MAY BE PROVIDED BY LAW."

MS. QUESADA. We accept.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I ask the committee a question concerning this subject at hand. When we speak of "INTELLECTUAL PROPERTY," this is actually a right being asserted against the world, including the government – it is the protection of the owner of the intellectual property against any claims, and, therefore, the national benefit cannot be a measure for diluting these claims. If there is any national benefit that will accrue from this, then it will be indirect. It will curtail the right to intellectual property of some whose property may not relate to the same degree as others to the national benefit.

Will the proponent and the committee, therefore, consider, so as not to distort the right of the intellectual property owner against any other claims in the world, to drop the words "the national benefit" and place these elsewhere where they will not distort the sense of the right which is being protected?

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. May we clarify that premise of Commissioner Ople? With regard to the matter of protection given by a municipal law, either in the form of a copyright or a patent, that is only enforceable within and coterminous with the territorial jurisdiction of the country that granted that protection. Thus, for instance, a copyright granted by the Philippine government is only enforceable within the Philippines, unless the same is duly registered in other countries. We are not, for that matter, even members of the Universal Copyright Convention. So when we speak of "protection granted by our laws," that is only for municipal purposes without prejudice to the registration of the same in other jurisdictions where such a protection is so.

MR. OPLE. Yes. According to the Ministry of Foreign Affairs, we are now increasing our involvement with the World Intellectual Property Organization (WIPO) based in Geneva. As I said, we are not yet a member of the Copyright Convention.

MR. REGALADO. We have withdrawn, Madam President.

MR. OPLE. If we have withdrawn, then there is always the prospect that we can resume our relationship.

MR. REGALADO. We can make another international court.

MR. OPLE. Yes, it is in that sense that I used the words "claims against the whole world." Moreover, if the right of a Filipino intellectual property owner is infringed anywhere in the world, then the Ministry of Foreign Affairs, if it is worth its name as the extension of the Philippine government overseas, ought to protect the right of that citizen.

Thank you, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I suggest that we just say: "AS MAY BE PROVIDED BY LAW" and let Congress determine the time limitations for different types of properties and creations.

MR. DAVIDE. Madam President, the phrase "AS MAY BE PROVIDED BY LAW" refers to the limit. If we now delete the limit and state only "AS MAY BE PROVIDED BY LAW," the guarantee is lost. So, in short, the only guarantee is the phrase "AS MAY BE PROVIDED BY LAW."

MR. MONSOD. As a matter of fact, the original formulation did not even have the phrase "AS MAY BE PROVIDED BY LAW." The original formulation was: "The State shall PROTECT."

MR. DAVIDE. Yes, it had. The provision contained the phrase "for a limited period as may be provided by law" which refers to the period, not to the guarantee of protection.

MR. MONSOD. Then maybe, we should eliminate the whole thing because there are some copyrights that have no limits.

MR. NOLLEDO. Madam President, point of information. I agree with Commissioner Monsod because the tendency now on the part of any government is not to limit the period. I think it should be Congress that should be given the discretion whether to limit or not. The word "limited" has a bad connotation. A copyright now will be good up to the lifetime of the author or 50 years thereafter, and I do not consider that a limited period. So, I think we should state there "FOR SUCH PERIOD AS MAY BE PROVIDED FOR BY LAW."

THE PRESIDENT. Is that accepted?

MR. DAVIDE. Accepted.

MR. NOLLEDO. Thank you, Madam President.

THE PRESIDENT. May we now ask Commissioner Quesada to read the formulation?

MS. QUESADA. In response to Commissioner Ople's concern regarding the phrase "PARTICULARLY WHEN BENEFICIAL TO THE PEOPLE," I think the word "PARTICULARLY" does not inhibit that particular area where an invention might not be beneficial but may require the protection of the State.

MR. OPLE. It is just a qualm about syntax and intent, and so, I really do not mind if the committee holds on to that.

Thank you.

MS. QUESADA. This is really in response to the concern of Commissioner Tadeo over our inventions not redounding to the benefits of our own country, but are rather used for others.

MR. OPLE. Commissioner Tadeo's concern is very valid, but I doubt if it comes under the rubric of intellectual property. I think we should find a place for this concern in a more prominent place in one of the sections.

MS. QUESADA. In the definition of intellectual property or intellectual creations, scientific studies, findings would actually now be . . .

MR. OPLE. Commissioner Tadeo speaks of our disease-resistant native variety, which he says has been co-opted by the IRRI. I doubt if that comes under the heading of intellectual property. But it is a very valid concern.

MR. MAAMBONG. Madam President, just one last question on this. When we use the words "BENEFICIAL TO THE PEOPLE," does it mean that the one who created his intellectual property cannot sell it? The only way an inventor can make money is to sell it, and he usually sells it abroad. There are so many inventions coming from the Philippines which have been sold abroad, that is why the inventor can make money. Will he be limited from selling his invention?

MS. QUESADA. Actually not, because we just use the word "PARTICULARLY." We are interested in those that will be retained here and used for the benefit of our people.

MR. MAAMBONG. Is the Commissioner saying that there are inventions which the Philippine government will not allow the inventor to sell?

MS. QUESADA. No, this statement does not have that intention.

MR. MAAMBONG. Thank you.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I would request the committee to reconsider its interpretation of the query of Commissioner Maambong. The trade of patents and licenses is a seller's market. I refer to the problem of technology control, or the control of industrial knowledge through the trade of license and patents. Every time we take a sip of Coke or Pepsi, every time we eat a slice of Shakey's pizza, every time we take a lick of Coney Island ice cream, we pay license fees to the American corporations in hard-earned dollars which we earned from exporting our best seafoods, our natural resources and even our men and women. Yes, part of this technology originated from the Philippines.

Another problem refers to the multinational concerns in the drug industry. Statistics indicate that 90 percent of the grantees of the patents and licenses from the Philippine government do not work on their patents here. They avail of the patent rights and the licensing agreements only to import, compound and distribute medicines that were made in their home countries. They invade the Philippine market, manipulate the Philippine consumption pattern. With this monopoly, they are able to jack up prices as they manipulate the supply and demand. It is eventually a monopoly arising from the control of licenses and patents. It is because we are unable to effectively regulate the sale of patents and the licensing agreements.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Yes, Commissioner Aquino is right.

MS. AQUINO. Madam President, may I add that the problem here is that whenever we sell patents or we enter into a licensing agreement, that effectively forecloses the Filipino manufacturer in entering into the alternative production, for example, of generic medicine. And rightly so because we have granted the patent already to a foreign licensing company.

MS. ROSARIO BRAID. Commissioner Aquino is right. Earlier, I read from a lengthy paper by Lilia Bautista, who is now Deputy Minister of Information, about the problems of the Technology Transfer Board in terms of issuing license, patents, et cetera. Out of the 151 projects that she had analyzed, 121 violated technology transfer agreements. So that, therefore, the provision in the Article on National Economy and Patrimony means putting more muscle into the Technology Transfer Board and ensuring that information is sold, rather than for the multinationals setting up affiliates here, as she has rightly said. So what happens here is that after a period of agreement, they take back and the technology is not transferred to the people. This is not in the technology transfer agreement. There is an agreement that technology should be transferred to the people after a period of time. We hope that this is really the area of concern that we should attend to, and that we have done it here by putting emphasis on the regulation of technology transfer, as well as in the Article on National Economy and Patrimony.

MR. MONSOD. Madam President, I am not sure that I understand exactly what Commissioners Aquino and Rosario Braid said but it seems that they are advocating restrictions on the ability to transfer or to sell inventions. It seems to me that invention, innovation and creations flourish in an atmosphere of freedom. We may put all the conditions we want here restricting their rights to transfer or to receive remuneration for these things, but these will only drive away the inventors, the scientists and the gifted citizens from our midst.

MS. ROSARIO BRAID. Madam President, what Deputy Minister Bautista deplored was that in our agreement, for instance, restrictive clauses present the use of technology after the expiry of the agreement. So that, therefore, it is really a matter of sticking to the technology agreement by which that technology is properly transferred; it is regulating. What happens right now is that the multinationals require payments for patents after the expiration or termination of the agreement.

MR. MONSOD. Madam President, the concern of Commissioner Rosario Braid on technology transfer of multinationals is contained in another paragraph. Here we are talking about the individual rights to inventions and artistic creations.

SUSPENSION OF SESSION

MR. RAMA. Madam President, I move that we suspend the session until two-thirty this afternoon.

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 12:49 p.m.

RESUMPTION OF SESSION

At 2:49 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. VILLACORTA. Madam President.

THE PRESIDENT. The chairman, Commissioner Villacorta, is recognized.

MR. VILLACORTA. I presume that there is still another section being discussed, the omnibus section for science and technology.

THE PRESIDENT. The Commissioner is correct.

MR. RAMA. So we can take a vote on it. This has been presented by Commissioners Suarez and Padilla.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. I think a few seconds before we took a recess, one of the issues being discussed was the interpretation of that particular section, Section 4, because on the one hand, Commissioner Quesada said that a Filipino inventor whose invention has already been registered in his name in the Philippines and, therefore, is duly protected would not be prohibited from entering into any contract with any individual or corporation, whether that be a Philippine corporation or a foreign corporation. But I believe Commissioner Aquino stood up and disagreed with that kind of interpretation. So that was the parliamentary situation before we took a recess. Since that is a very important matter that affects this particular section, I would like to find out what is really the official version of the committee so that the Commission can properly decide on this matter, Madam President.

MS. QUESADA. Actually, our provision has a qualifying statement which is beneficial to the people. So that term does not prohibit the selling of intellectual property, but there is a proviso that would protect intellectual properties found beneficial to the country.

MR. BENGZON. Therefore, is it the contemplation of the committee that by putting that phrase the government, through the proper agency, although not prohibiting the Filipino inventor from selling or entering into a joint venture with a foreign person or company, could assist this particular Filipino inventor so that he gets the best terms in the negotiation?

MS. QUESADA. That is the intention.

MR. BENGZON. So that is the spirit.

Thank you, Madam President.

MR. RAMA. May I ask the committee chairman to read the entire text of Section 4 so that we can vote on it.

SUSPENSION OF SESSION

MR. VILLACORTA. May we ask for a suspension because the chairman of the Subcommittee on Science and Technology is still consolidating the formulation.

THE PRESIDENT. The session is suspended.

It was 2:52 p.m.

RESUMPTION OF SESSION

At 2:53 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MS. QUESADA. Section 4 will now read: "THE STATE SHALL PROTECT AND SECURE THE EXCLUSIVE RIGHTS OF SCIENTISTS, INVENTORS, ARTISTS AND OTHER GIFTED CITIZENS TO THEIR INTELLECTUAL PROPERTY AND CREATIONS, PARTICULARLY WHEN BENEFICIAL TO THE PEOPLE FOR SUCH PERIOD AS MAY BE PROVIDED BY LAW."

MR. RAMA. The body is ready to vote, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of this particular section as read by Commissioner Quesada, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 26 votes in favor and none against; the new section is approved.

MR. RAMA. Madam President, there is still one amendment, an additional section under the heading on science and technology, which, I believe, has been accepted. May I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, we have this proposed amendment, the inclusion of an additional section, which reads: "CONGRESS SHALL ESTABLISH AN INDEPENDENT CENTRAL AUTHORITY THAT SHALL UNDERTAKE, COORDINATE AND PROMOTE RESEARCHES AND ADOPT PROGRAMS DESIGNED TO DEVELOP SCIENCE AND TECHNOLOGY."

May I explain briefly, Madam President.

THE PRESIDENT. The Commissioner will please proceed.

MR. SARMIENTO. This proposal is sponsored by this Representation, Commissioners Nolledo, Ople, Bennagen and Quesada. It is important, Madam President, that we have an independent body that shall upgrade science and technology in our country.

It has been shown that the Philippines trails behind most of the ASEAN countries in the quality of activities and amount of resources spent on science and technology. Science and technology remains a marginal concern in the Philippines. The Philippines, according to UNESCO, has one of the lowest number of scientists and engineers per million population. And according to a recent study, the Philippines is still, scientifically and technologically, a backward country compared with developed countries and even to most of our ASEAN neighbors.

The Philippines' technology is estimated to be 30 to 40 years behind that of developed countries. Now with this body, we will be recognizing the importance of science and technology. We will make this body independent or beyond the reach of political expediency.

So this is, Madam President, our explanation to the proposed amendment.

THE PRESIDENT. What does the committee say?

MR. VILLACORTA. After conferring with the members of the committee and also with Science Deputy Minister Kintanar, we feel that the National Science and Technology Authority (NSTA) already performs these functions. Secondly, creating a commission will just add to the number of constitutional commissions. Moreover, an autonomous commission will detract from the idea of scientific development having the full support and guidance of the State.

And lastly, it does not seem wise to disturb the operations of an already workable body, the NSTA, and create a new agency. This might cause the displacement of personnel and resources.

MR. SARMIENTO. What we have in mind, Madam President, is to integrate the existing science bodies, the NSDB and the NSTA. It was actually Deputy Minister Kintanar who suggested the creation of this independent central authority because according to him, in another country, in Singapore, the science body was abolished by the government. The deputy minister suggested that we should have an independent body, free from executive interference, to take care of upgrading science and technology in the Philippines.

MR. VILLACORTA. Madam President, NSTA is formerly NSDB. We just had lunch with Deputy Minister Kintanar. Probably, when he was talking about an independent body, he was referring to the NSTA.

MR. SARMIENTO. Maybe he changed his mind, Madam President, because he suggested the creation of an independent central authority. He was citing the country where that agency on science and technology was abolished. So he said that there should be an independent body free from political expediency.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. May I speak also as a committee member. I think these ideas could be harmonized by just perhaps focusing on the present structure of the National Science and Technology Authority, examining its present functions which today include agriculture, particularly in research and applied communication, applied research utilization, food, nutrition, health, science promotion, inventions, among other areas of concern, rather than coming up with a different commission.

For instance, we feel that there should be anticipatory planning on the possible impact of technology. Commissioner Ople mentions leapfrogging, as in the case of Iran which had leapfrogged into high technology without preparing the people in terms of attitudinal requirements needed to handle technology. And this is the reason the people became antitechnology, and the resultant effect was that the forces of Khomeini that were anti-Western and antimodern grew.

If it is along these areas that the new commission or the NSTA could move into, meaning, anticipatory planning or moving into other areas of concerns, such as information technology, then I welcome, as a member of the committee, an expanded NSTA without necessarily creating a commission.

MR. SARMIENTO. Madam President, yesterday we created a Commission on National Language, and I understand the body is proposing another, a Commission on Arts and Culture. I think science and technology is as vital as language and arts and culture. This will not be multiplying government bodies. It is a question of integrating existing bodies on science and technology.

MS. ROSARIO BRAID. Madam President, we cannot equate the existing Institute of National Language, which is smaller than a bureau, with the National Science and Technology Authority, which is really a very elaborate structure which has about ten other subunits in terms of scope, number of personnel, programs and budgetary allocation.

Likewise, we do not have a commission or even an office on culture. So, perhaps, the Commissioner's proposal could really work within the present National Science and Technology Authority and expand it. I do not think the committee will be against making it independent or expanding it. Creating a new one from the existing structure perhaps will not be a step in the right direction.

MR. SARMIENTO. May I yield to Commissioner Nolledo, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

As I understand from Commissioner Rosario Braid, she is not objecting to the formation of a body with expanded functions. Madam President, modern technology cuts across practically all aspects of our national life, and if we adopt the proposal of Commissioner Sarmiento, coauthored by Commissioner Ople and this Representation, Congress will be able to reassess and consider loopholes, as well as overlapping of functions in present government offices. It may consider, for example, depriving the Philippine Patent Office, which is now in charge of registering trademarks, patents, et cetera, of its functions with respect to inventions. So all aspects of inventions — registration, acceptance and transfer of inventions and others — can be given to this central authority.

So I feel that regardless of the opinion of outsiders, like Deputy Minister Kintanar, this Commission should realize the need to constitutionalize a body we can call a Commission on Science and Technology. We are lagging behind our ASEAN neighbors by almost 40 to 50 years, Madam President, and yet we are not concerned about coordinating and integrating the functions related to science and technology.

I plead to the Members of this Commission to consider seriously the Sarmiento amendment.

Thank you, Madam President.

MS. ROSARIO BRAID. Madam President, may I ask just one clarificatory question. Would the proposal mean integrating the present National Science and Technology Authority with such bodies like Technology Resource Center, National Computer Center, Technology Transfer Board and other existing institutes or bodies that are really performing technology functions but which are apart?

MR. NOLLEDO. Not necessarily. That is why we are giving Congress the power to analyze the basic functions related to technology and science. We do not do away with these small offices which the Commissioner mentioned, but coordination of functions may be provided for.

MR. VILLACORTA. Madam President, Commissioner Quesada would like to make a clarification.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. We have just conferred with the representative from the National Science and Technology Authority, Deputy Minister Kintanar. The clarification is that there is already a central authority body, the NSTA, which actually initiates and undertakes all these activities already mentioned in our provision, but there is the need to strengthen such body. There is no need to create a new independent body which might serve to be counterproductive, in the sense that it is not linked with other development sectors.

MS. ROSARIO BRAID. Madam President, the present NSTA is headed by a minister. Would the created commission be under a commissioner? How would this be restructured? So I support the committee's stand that we should strengthen and expand the present NSTA towards the areas which we mentioned; it will integrate perhaps the other boards undertaking science and technology functions and work towards more anticipatory planning, towards the possible impact and potential of new technology.

MR. NOLLEDO. Madam President, can we not adopt a provision to the effect that Congress shall strengthen the existing bodies which are in charge of coordinating or integrating functions related to science and technology? If the committee is amenable to such kind of provision, we are willing to withdraw our amendment.

MS. QUESADA. I think whatever will contribute to strengthening the present bodies in their performance of their functions will be accepted. So I hope the Honorable Nolledo and Sarmiento could reformulate their proposal in such a way that it is not the creation of a new body but a mandate to strengthen such bodies so that they will have a better and more effective performance of their functions.

MR. NOLLEDO. We will do that, Madam President.

MR. VILLACORTA. Madam President, the committee suggests that while this provision is being reformulated, to save time, we proceed to the section on arts and culture.

THE PRESIDENT. Will the Commissioner please read Section 1 on arts and culture?

MR. VILLACORTA. Before we do that, Madam President, Commissioner Bennagen will take over the chairmanship of the Subcommittee on Arts and Culture vice former Commissioner Lino Brocka.

We would like to say a few words by way of introduction to the sections on arts and culture.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. VILLACORTA. Madam President, I would like to excuse myself. I was invited by the Association of Philippine Colleges of Arts and Sciences. There are about 700 educators in a seminar and they are interested in our approved sections on education.

I would like to turn over the chair of the committee to Commissioner Serafin Guingona.

THE PRESIDENT. Commissioner Villacorta is excused.

MR. VILLACORTA. Thank you, Madam President.

THE PRESIDENT. Commissioner Bennagen may now proceed.

MR. BENNAGEN. Thank you, Madam President.

We have not had any interpellation yet on arts and culture. I remarked at one point that we are probably a group of "barbarians" who do not exactly appreciate the significance of culture, but that we just want to put in context the whole provision on arts and culture. But when I said this, I was overheard by Commissioner Nolledo and he said that he prepared some questions for us. Since he is busy, let me give a brief introduction on arts and culture.

Arts is one of the things that have always been with us but are usually taken for granted until they impinge on or shock our jaded consciousness. We hang a painting to impress people, to add color to a wall or to fill up a space. We sing or listen to music while we do our morning ablutions and laundry and while we are in the midst of some conversation. We dance, recite poems, go to the theater and do other things that may be artistic, all in the process of growing up and, sadly, also of growing old. But most of the time, we go through these things rather thoughtlessly, unaware of the subtle ways of how arts affects our very life, both as individuals and as a society.

From an evolutionary perspective, arts emerged as a magico-religious act connected with economic concerns, such as hunting and agriculture. They also emerged in relation to the various rites of passage, such as those of birth, adolescence, marriage and death. Whether visual, literary and performing, arts performs definite functions in the overall dynamics of social life, but primarily to maintain that social life in its particular stage of development. Arts then is participative or democratic in the way some of us found out during the cultural program performed by the representatives of the peoples of the Cordillera at the South Lobby of this Batasan Complex building.

Arts is a way of surviving beyond the historical circumstances which have generated them. It survives *in situ,* in private and public museums, in scholars' books and shelves and, more vibrant still, in people's lives. And as it survives, its functions often change. For example, we continue to be awed and fascinated by the cave paintings of Altamira in Spain and those of Lascaux in France. We are entertained by the ancient dances, songs, and epics of our ancestors through the Bayanihan, Filipinescas and other dance troupes. We decorate our rooms with ethnic and folk arts and we are cheek by jowl with imports from other lands and other times.

Art, therefore, acquires a certain autonomy and it affects our lives in very subtle ways. Art, beyond its magico-religious and economic functions, also functions to distort, criticize and shape our feeling, thinking and behavior. Today, conventional wisdom has it that art entertains, decorates or educates. But in its own way, it also mystifies and in the process dehumanizes.

Let me illustrate, Madam President. An average citizen, looking at an abstract painting by Joya with a five-figure price, could be dehumanized in at least two ways: The painting, understandable only to the specialist, tells him: "You do not understand me; you are a Philistine, therefore, you are an idiot." Or it could say: "You cannot afford me, therefore, you are poor." The same could also apply to other arts that have been accessible only to the rich and the powerful. It is this kind of cultural terrorism that has agitated some artists to wage protest actions against the Cultural Center of the Philippines during the Marcos years when it became the watering hole of culture vultures oblivious to the widespread poverty and misery even as they speak sanctimoniously of "the true, the good and the beautiful."

In a class-divided society, it is the dominant elite who dictate what is true, what is good and what is beautiful. Consequently, art contributes to the preservation of social and cultural stratification. Fortunately, however, because of the relative autonomy of art, it provides an arena for criticism of society and of the struggle to restructure this society. Those who are excluded from the privileged circle, whether by choice or by force, continue to explore other forms of artistic expression, particularly those that are rooted in the realities of Filipino life. In their inchoate form, these efforts complement those directed at liberating us from an alienating Western culture, as well as the corollary search for a Filipino aesthetics nourished by the rich diversity of Philippine society and culture as it expresses our own vision of humanity.

It is in this search for Filipino aesthetics that the provisions in the section on arts and culture are situated. The provisions, we believe, are supportive of already approved provisions which altogether aim to help build a vigorously democratic Filipino nation.

Thank you, Madam President.

MR. GUINGONA. Madam President, may I mention that the Subcommittee on Arts and Culture has for its member Commissioner Uka, who is the vice-chairman of the Committee on Human Resources. This subcommittee is now chaired, as announced by Chairman Villacorta, by Commissioner Ponciano Bennagen.

Madam President, for purposes of facilitating our work, may I respectfully suggest that we follow the practice during our discussions on the previous sections on education, sports, science and technology, meaning, we will combine both the period of interpellations and the period of amendments in order to save time.

THE PRESIDENT. May we know who will be our first speaker?

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I would like to interpellate Commissioner Bennagen. I have only some questions here, Madam President.

THE PRESIDENT. The Commissioner will please proceed.

MR. NOLLEDO. Thank you, Madam President.

When the committee talks of "protect, conserve the nation's historical and cultural heritage and resources, including paleontological, archaeological and artistic objects," I think there is no problem about that. But when it uses the word "promote," how does the committee promote these artistic objects or objects related to paleontology and archaeology?

MR. BENNAGEN. I think "promote" here is used in a liberal sense in that we encourage ways by which the value of these objects could be better appreciated, for instance, in exhibits, in schools and even in public. In other words, we do not promote fossil dug in the caves of Palawan but we promote its value by using it in educational exhibits.

MR. NOLLEDO. Will the Commissioner agree with me that cultural heritage can well cover cultural properties?

MR. BENNAGEN. Yes, if we look at heritage also as an expanding body of cultural work and artifacts or of cultural creations, except that sometimes cultural heritage is commonsensically viewed as static, just a body of artifacts often neglected due to the demands of more pressing present-day concerns.

MR. NOLLEDO. Will the Commissioner agree with me that the term "cultural properties" includes the following: antiques, relics, artifacts, natural history specimens, historical and archaeological sites, anthropological areas and historical manuscripts?

MR. BENNAGEN. Yes, those are the ones listed in RA 4846.

MR. NOLLEDO. Therefore, it is not necessary, Madam President, to mention paleontological, archaeological and artistic objects here. Perhaps, we can amend Section 1 to read as follows: "THE STATE SHALL PROTECT, CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES." Will the Commissioner agree to such kind of amendments?

MR. BENNAGEN. Yes, on the understanding that paleontological, archaeological and artistic objects would increasingly become part of our consciousness. There is a personal bias why we included paleontological and archaeological objects, in the sense that at this stage they have acquired a certain urgency particularly in the development of our sciences. We know for a fact that one very important fossil was brought out of the country because its significance was never really appreciated by people in the educational institutions.

MR. NOLLEDO. Madam President, my research indicates that "paleontological" follows from "archaeological" and, therefore, there are only two important things with respect to cultural heritage; namely, archaeological and anthropological. Am I right?

My research is based on the pertinent provisions of RA 4846, as amended by P.D. No. 374, known as the Cultural Properties Preservation and Protection Act of the Philippines.

MR. BENNAGEN. As long as we understand that "archaeological" would include those that are not really part of human creation as I mentioned earlier, such as fossils.

MR. NOLLEDO. With respect to line 26, where it is stated that Filipino national culture shall be non-partisan, pluralistic, liberative and democratic, does "non-partisan" mean free from political interference?

MR. BENNAGEN. Yes, Madam President.

MR. NOLLEDO. And that when we talk of "pluralistic," we recognize the existence of various ethnic differences in the country?

MR. BENNAGEN. Not just ethnic traditions but the whole range of cultural traditions to include also influences from the West that could be critically adopted to our own concerns. It is not limited to pluralism within the national boundary.

MR. NOLLEDO. And that when we talk of "liberative," we talk of tolerance?

MR. BENNAGEN. No, in the sense that art can take different forms. It can be a captivating art in the sense that it captivates one and bounds him with certain traditions that prevent him from asking the sources of his situation in life. In other words, it frees him from just being "by art." As I mentioned earlier, when one goes to an opera without even understanding opera, he is awed and captivated by it, but he is not liberated in terms of understanding the historical source and meaning of that opera.

MR. NOLLEDO. Madam President, on page 7, lines 6 and 7 of the original report, it is stated: "The State shall encourage and support scientific and cultural research and studies." What does the committee mean by "scientific" here considering that we have just finished the topic on science and technology? Does it mean treatise or systematic studies?

MR. BENNAGEN. I am glad the Commissioner asked the question. Cultural research can also be scientific, but my understanding is that this has already been preempted by the approved provision in the subsection on science and technology.

MR. NOLLEDO. Lastly, Madam President, with respect to lines 12 to 14 of the same page, the committee provided:

> There shall be an independent central authority to formulate, disseminate and implement the cultural policies and programs of the State.

We will remember that with respect to copyrights; we register the same with the National Library under existing law. And with respect to patents, trademarks, service marks, trade names, et cetera, we register the same with the Philippine Patent Office. Does the committee, therefore, recommend that these offices of registration be integrated into one central authority including the function of registration?

MR. BENNAGEN. That concern has escaped the deliberations of the committee in spite of the presence of Commissioner Uka who is a lawyer. We were more concerned with visual, literary and performing arts and not with legal status of artistic creations and the like.

MR. NOLLEDO. So does the Commissioner not include the function of registration or determination as to who is the applicant entitled to a letter of patent or a certificate of copyright?

MR. BENNAGEN. Now that the Commissioner mentioned it, it ought to be part of this coordinating policy.

MR. NOLLEDO. I thank the Commissioner. Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Regalado be recognized.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Madam President, I have a proposed amendment, but after I registered with the Floor Leader, I found out that this was included in the omnibus amendment of Commissioner Davide. Therefore, as a matter of intellectual honesty, I would like to defer to Commissioner Davide. It is his omnibus proposal.

MR. GUINGONA. Madam President, if the proposed amendment of Commissioner Davide refers to Section 1, may we respectfully request that Commissioner Bennagen be allowed to read Section 1 as formulated by the Committee on Human Resources.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Madam President. Section 1 states:

> The State shall protect, conserve and promote the nation's historical and cultural heritage and resources, including paleontological, archaeological and artistic objects.

MR. GUINGONA. Madam President, there is a clerical error in the spelling of archaeological. It should be spelled, a-r-c-h-a-e-o-l-o-g-i-c-a-l . The letter "a" was omitted.

MR. BENNAGEN. The original spelling is a variant. It is also accepted.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, my proposed amendments to Section 1 are the following: In the beginning of the section, add this sentence: "ARTS AND LETTERS SHALL BE UNDER THE PATRONAGE OF THE STATE." Then reword the next sentence to read as follows: "IT SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES."

MR. GUINGONA. Commissioner Bennagen would like Commissioner Davide to please repeat his proposed amendments, Madam President.

MR. DAVIDE. Section 1 will read as follows: "ARTS AND LETTERS SHALL BE UNDER THE PATRONAGE OF THE STATE. IT SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES." There is an additional amendment after that, but I want the first amendment acted on first.

MR. GUINGONA. In other words, the Commissioner is deleting the word "protect."

MR. DAVIDE. Yes, I am deleting the word "protect" because it is already included in "conservation and promotion."

MR. GUINGONA. All right. May I give the floor to the chairman of the subcommittee?

MR. BENNAGEN. Can we go sentence by sentence? The second sentence is acceptable but not the first. Madam President, we are trying to establish some kind of autonomy of the arts and letters, free from the interventions of the State in ways that have so far been anticultural, in the sense that the State imposes its definition of arts and letters.

MR. DAVIDE. Madam President, arts and letters is only through the patronage of the State, and that is basic. The same language appears in the 1935 and the 1973 Constitutions. The statement that arts and letters shall be under the patronage of the State does not mean that it will be dependent or subject to the control of the State. It only emphasizes the primacy and importance of arts and letters.

MR. BENNAGEN. Yes, we understand that, Madam President. In the deliberations of the subcommittee, it was felt that we have come to a point when arts can be so easily manipulated by the State and its instrumentalities.

MR. DAVIDE. But the succeeding provisions recognize primarily the duty of the State regarding arts and culture.

MR. BENNAGEN. Yes, but we are taking it away from the semantics of patronage. That is the objection. It is the word "PATRONAGE" that the committee is objecting to.

MR. DAVIDE. Is the second sentence accepted?

MR. BENNAGEN. Yes, it is accepted.

MR. DAVIDE. May I request a vote on the first, Madam President.

MR. BENNAGEN. Madam President, "PATRONAGE" somehow brings us back to the medieval concerns of kings and queens who patronized painters and singers for their personal ends.

MR. DAVIDE. I do not think that that is the concept of "PATRONAGE OF THE STATE." It simply means the mantle of protection of the State.

MR. BENNAGEN. We want that to be clearer in the subsequent provisions.

MR. DAVIDE. If it is to be clear in the succeeding provisions, it must be in the beginning.

MR. BENNAGEN. We want to put that in the context of a newly submitted amendment, which we feel should take care of this debate.

MR. DAVIDE. So may we request a vote on the first sentence.

THE PRESIDENT. We will ask first whether or not there are other comments on this particular point.

Is there any other comment on this particular point?

Commissioner Aquino is recognized.

MS. AQUINO. I would like to propose an amendment to the second sentence proposed by Commissioner Davide. This is actually an amendment by substitution which states: "ALL THE ARTISTIC AND HISTORIC WEALTH OF THE NATION CONSTITUTES THE CULTURAL TREASURE OF THE NATION AND SHALL BE UNDER THE SAFEGUARD OF THE STATE WHICH MAY PROHIBIT OR REGULATE ITS EXPORT AND ALIENATION."

MR. BENNAGEN. Is that an amendment to the second sentence?

MS. AQUINO. Yes, to the second sentence.

MR. DAVIDE. Can we have it as a separate sentence? It should be a separate sentence.

MS. AQUINO. After the second sentence?

MR. DAVIDE. Yes.

SUSPENSION OF SESSION

MS. AQUINO. Maybe we can work out a formulation.

Madam President, may I request a suspension of the session?

THE PRESIDENT. The session is suspended.

It was 3:30 p.m.

RESUMPTION OF SESSION

At 3:35 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. I ask that Commissioner Ople be recognized.

THE PRESIDENT. Commissioner Ople is recognized.

What is the pleasure of Commissioner Guingona?

MR. GUINGONA. Madam President, during the suspension of the session, Commissioners Davide and Ople, together with the members of the committee, have agreed to consider first the proposed amendment of Commissioner Ople.

MR. OPLE. Thank you, Madam President. I want to thank the committee for granting precedence to this section because it is proposed to be the new Section 1, with the concurrence of the committee and the other conferees just a while ago. I suppose this is accepted by the committee because it states an all-embracing philosophy for arts and culture and serves as an umbrella statement over what follows in this section on arts and culture. It reads as follows: "SECTION 1. THE STATE SHALL FOSTER THE PRESERVATION, ENRICHMENT AND DYNAMIC DEVELOPMENT OF A FILIPINO NATIONAL CULTURE BASED ON THE PRINCIPLE OF UNITY IN DIVERSITY IN A CLIMATE OF FREE ARTISTIC AND INTELLECTUAL EXPRESSION."

MR. BENNAGEN. Is it the contemplation of the proposed section that it will absorb Section 3 of the committee report which states:

> The State shall support and encourage the development of Filipino national culture which shall be nonpartisan, pluralistic, liberative and democratic.

MR. OPLE. In my belief, it does absorb and reflect this national culture that is nonpartisan, pluralistic, liberative and democratic.

MR. BENNAGEN. Also, that it shall absorb the intent of Section 3(a) which reads:

> The State shall guarantee freedom of expression for all those engaged in cultural work and assure their freedom from political interference, restrictions and control.

MR. OPLE. Yes, Madam President, this combines the developmental and the libertarian spirit of what follows in the section on arts and culture.

MR. NOLLEDO. Just one question, Madam President, of Commissioner Ople.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President. I notice that the Commissioner is talking of the development of national culture. What happens to the cultural heritage of the nation? It seems to me that the Commissioner's proposal does not contemplate preservation of the cultural heritage. It is not mentioned in the original report.

MR. OPLE. Madam President, the sentence begins with ". . . THE PRESERVATION, ENRICHMENT AND DYNAMIC DEVELOPMENT OF A FILIPINO NATIONAL CULTURE."

MR. NOLLEDO. So cultural heritage is considered covered by that phrase.

MR. OPLE. It takes pride of placing it in this section, Madam President.

MR. NOLLEDO. I thank the Commissioner, Madam President.

MR. GUINGONA. Madam President, the committee accepts the proposed amendment.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I would like to substitute "DYNAMIC DEVELOPMENT" with the word "EVOLUTION."

MR. OPLE. May I hear the reason for Commissioner Monsod's preference of the more passive and less purposeful "EVOLUTION"?

MR. MONSOD. Madam President, we cannot force culture to happen. It is the confluence of a lot of factors that happen in the life of a country and somehow, I have my reservations on the suggestion that this can be forced by development just like national or economic development.

MR. OPLE. Will Commissioner Monsod's mind be eased if we substitute "DEVELOPMENT" with "EVOLUTION"? But I will retain the word "DYNAMIC."

MS. ROSARIO BRAID. Madam President, how about harmonizing the two to read "DYNAMIC EVOLUTION"?

MR. OPLE. Madam President, "DYNAMIC EVOLUTION" has the element of purposiveness. Evolution without dynamism is just allowing the natural unfolding of something. So I think it accords with the spirit of the State's participation. "DYNAMIC EVOLUTION" will be satisfactory for me, Madam President. I hope the committee also accepts, at least partially, the amendment of Commissioner Monsod.

MR. GUINGONA. May we hear from Commissioner Bennagen, Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Madam President, arts, in the nature of things, acquires a certain autonomy from its origin in terms of specific historical circumstances. If the intent of the words "DYNAMIC EVOLUTION" or "DEVELOPMENT" takes that into account, meaning, that some elements felt appropriate, through some kind of cultural practice, that Filipino culture can be adopted, then what are words . . .?

MR. OPLE. Yes, that is the meaning.

MR. BENNAGEN. We are concerned here with the process, Madam President.

MR. OPLE. Both Commissioner Monsod and I agree to the phrase "DYNAMIC EVOLUTION."

MR. BENNAGEN. I repeat that if it takes that process into account, then there is no problem.

MR. OPLE. Thank you, Madam President.

MR. RAMA. May we take a vote on that, Madam President.

THE PRESIDENT. Will Commissioner Bennagen or Commissioner Ople read the formulation now.

MR. BENNAGEN. Commissioner Ople has our copy, Madam President.

MR. OPLE. Yes, I stole the copy of Commissioner Bennagen. So, Section 1, Madam President, will read: "THE STATE SHALL FOSTER THE PRESERVATION, ENRICHMENT AND DYNAMIC EVOLUTION OF A FILIPINO NATIONAL CULTURE BASED ON THE PRINCIPLE OF UNITY IN DIVERSITY IN A CLIMATE OF FREE, ARTISTIC AND INTELLECTUAL EXPRESSION."

May I state for the record that Commissioner Monsod is a coauthor of this amendment, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of this particular section as read by Commissioner Ople, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 25 votes in favor, none against and 1 abstention; the new Section 1 is approved.

MR. GUINGONA. Madam President, the committee is now ready to hear the Davide amendment.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President. The original Section 1 would be Section 2 now. The lead sentence will read: "ARTS AND LETTERS SHALL BE UNDER THE PATRONAGE OF THE STATE. IT SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES."

MR. GUINGONA. Commissioner Bennagen will respond for the committee, Madam President.

MR. BENNAGEN. We accept the second sentence, but not the first for reasons already explained earlier.

MR. DAVIDE. Madam President, we are prepared to submit the first sentence to a vote, with the following as coauthors: Commissioners Romulo, Monsod, Rama, Maambong and Treñas.

THE PRESIDENT. Does Commissioner Bacani want to comment?

BISHOP BACANI. I want to comment on the first sentence, Madam President.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. I am not sure whether or not we understand the meaning of "PATRONAGE OF THE STATE." Will this mean the obligation of the State to establish a cultural center and a folk arts theater?

MR. DAVIDE. Madam President, as a matter of fact, we were about to object to the Commissioner's proposal because it is already included in Sections 1 to 3 of the committee proposal. And we felt that arts and letters should be, basically and primarily, under the patronage of the State, meaning to say that the primary duty of safeguarding, propagation and promotion of arts and letters are really the duties of the State. As to the question of whether or not it would include the Cultural Center of the Philippines, the cultural center is a building and the presentations therein for the promotion of arts and letters may be undertaken by the State.

MR. OPLE. I thank the Commissioner, Madam President.

MR. DAVIDE. As to the jurisprudence on this, we already have a wealth of jurisprudence since this is the same wording as in the 1935 and 1973 Constitutions.

MR. OPLE. Madam President, historically, the patronage of arts and letters has really been vested by tradition, first, in a ruling class and second, in the more affluent and opulent members of society. For example, we owe a great deal of renaissance art to the patronage of Lorenzo de' Medici, the Magnificent. When Machiavelli wrote *The Prince*, he addressed the frontispiece to Lorenzo, the Magnificent, in the hope that this could win him back the consulate position he lost with the change of government. But he was not successful, Madam President. And, of course, I remember Francis Bacon dedicating his own *novum organon* to the King of England. Patronage, historically, has been understood in this context. Is this still the connotation assigned to the patronage of arts and letters by the State in the 1935 and 1973 Constitutions? We may have arrived at a plateau in our historical development when freedom of expression, the especially artistic and cultural expression, can proceed independently of any patronage. Or does the connotation refer to the act of being beholden to the State through patronage? Being beholden, in any dictionary, means an obligation or a favor that should be returned. If that is the context in which the patronage of arts and letters is employed in this proposal, I am afraid that I will have severe qualms of conscience supporting it.

MR. DAVIDE. Madam President, the fears of Commissioner Ople are really unfounded. When we say "PATRONAGE," it does not mean "beholden," and the jurisprudence on the matter is not what he stated earlier. The things he enumerated were abnormal approaches to arts and cultures. When the delegates to the 1935 and 1973 Constitutions who were elected by the people adopted this particular language, they never had in mind the word "beholden" in lieu of "PATRONAGE" nor its historical connotation as mentioned by Commissioner Ople.

To avoid the fears of Commissioner Ople, we can propose a modification to read merely as follows: "ARTS AND LETTERS SHALL ENJOY THE PATRONAGE OF THE STATE."

MR. OPLE. That eases somewhat the burden on my mind, but that is all I have to say.

Thank you, Madam President. I thank Commissioner Davide.

MR. GUINGONA. Madam President, the committee has not accepted the first sentence. Commissioner Bennagen would like to say something.

MR. BENNAGEN. I would just like to ask a few questions. Is it clear in the interpretation of "PATRONAGE" that it has nothing to do with establishing a kind of exchange relationship?

MR. DAVIDE. Certainly not, Madam President.

MR. BENNAGEN. As already put, it means beholden to the State.

MR. DAVIDE. "PATRONAGE" is never meant "beholden."

MR. BENNAGEN. No, but the evolution of "PATRONAGE" as a concept includes the idea of the patron.

It is really a part of it. We are describing here a concept, not just a word.

MR. DAVIDE. That is exactly the point. "PATRONAGE" is not derived from what the Commissioner believes as the patron. It simply means that the State is under obligation to protect, encourage, promote and preserve arts and letters. Why are we so afraid that arts and letters enjoy the patronage of the State when, under the same article, we are mandating the State to do exactly what it should in respect to arts and letters? According to the dictionary furnished by Commissioner Nolledo, "PATRONAGE" means patron's help, customer's support. To patronize means to act as patron; to support, encourage. It is beautiful, Madam President.

MR. BENNAGEN. Yes. But as I said, we are not just defining a word. It was Justice Oliver Wendell Holmes who said that it is not words we define but things and processes. We are saying the use of "PATRONAGE" has lent itself to the abuse of the relationship between the State and arts and letters. We want to obviate that possibility by restating that in Section 1. Our feeling is that Section 1 already includes the concept of State support that the Commissioner describes.

REV. RIGOS. Madam President.

MR. DAVIDE. Madam President.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Let us hear first Commissioner Rigos.

REV. RIGOS. Madam President, just one question of the committee or of the Honorable Davide. Are we talking here of arts and letters or arts and culture?

MR. DAVIDE. Arts and letters, Madam President.

REV. RIGOS. I thank the Honorable Davide, Madam President.

THE PRESIDENT. So the sentence now reads: "ARTS AND LETTERS SHALL BE UNDER THE PATRONAGE OF THE STATE."

MR. DAVIDE. It has been reworded, Madam President, to conform with Commissioner Monsod's suggestion. It shall now read: "ARTS AND LETTERS SHALL ENJOY THE PATRONAGE OF THE STATE."

MR. GUINGONA. Madam President, the committee members are divided. We would like to throw this to the body for consideration. I think we are ready to vote, Madam President.

VOTING

THE PRESIDENT. This will be the first sentence of Section 2: "ARTS AND LETTERS SHALL ENJOY THE PATRONAGE OF THE STATE."

As many as are in favor of having this as the first sentence of Section 2, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 28 votes in favor and 3 against; the first sentence of Section 2 is approved.

MS. ROSARIO BRAID. Madam President, I am for this amendment as long as it does not reflect the linkage with the patron of the arts.

MR. GUINGONA. Madam President, may we ask Commissioner Bennagen to read the second sentence of the new Section 2?

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. May we request Commissioner Davide to read the second sentence.

MR. DAVIDE. The second sentence will read: "IT SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES." However, there is a substitute proposal by Commissioner Aquino which reads: "ALL THE ARTISTIC AND HISTORIC WEALTH CONSTITUTE THE CULTURAL TREASURE OF THE NATION AND SHALL BE UNDER THE PROTECTION OF THE STATE WHICH MAY PROHIBIT OR REGULATE ITS EXPORT AND DISPOSITION."

MR. BENNAGEN. So there will be two sentences?

MR. DAVIDE. No, it is a substitute proposal.

THE PRESIDENT. Will Commissioner Davide read the second sentence, starting from "IT SHALL."

MR. DAVIDE. The second sentence reads: "IT SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES." This is supposed to be the second sentence which the committee accepted.

MR. GUINGONA. Yes, we accepted it, Madam President.

MR. DAVIDE. But there is a substitute proposal by Commissioner Aquino, Madam President.

MR. GUINGONA. So may we be clarified, Madam President. Is the Commissioner, therefore, withdrawing his proposed amendment?

MR. DAVIDE. Yes, to give way to Commissioner Aquino's amendment.

THE PRESIDENT. All right. How does it read now so that we can vote on it?

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Will Commissioner Davide entertain a question? Will the concept of protection and prevention of exports include the concept of recovering some of our very precious art treasures which are now in different places in Europe? These were brought out of the country during the first decade of the Spanish occupation, during the Cuevas' years. There is an intent in many that these art treasures which are, perhaps, the best should be recovered.

MR. DAVIDE. That would be included, Madam President. The State can take the necessary steps to recover cultural treasures, artifacts and antiques in foreign places.

MR. GUINGONA. Madam President, the committee is of the opinion that we should retain the second paragraph as previously proposed by the honorable Commissioner Davide, without prejudice to proposing the concept in the Aquino amendments either as a third sentence or as another subsection.

MR. DAVIDE. Yes, that would be a very good compromise, Madam President.

MR. GUINGONA. Can we request, therefore, Commissioner Davide to restate the second sentence as originally proposed.

MR. DAVIDE. I agree to a restoration of the second sentence as earlier amended and to reserve the proposal of Commissioner Aquino as a possible separate section. There are proposals that instead of "IT," we use "THE STATE." So the second sentence will read: "THE STATE SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES."

MR. GUINGONA. The committee accepts the proposed amendment, Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, I would like to ask Commissioner Davide whether or not the amendment of Commissioner Ople fully covers his proposal.

MR. DAVIDE. Actually, the thrust of Commissioner Ople's proposal was on the development of the historical and cultural heritage, not basically on its conservation and promotion. As a matter of fact, during the suspension, the understanding was that Commissioner Ople's proposal will be the flagship for development. However, Section 1, as earlier proposed by the committee and as amended, would be the flagship for promotion and preservation.

BISHOP BACANI. I notice that the formulation of Commissioner Ople already speaks of the State fostering the preservation of Filipino national culture, and I think the cultural heritage that we speak of in Commissioner Davide's amendment is synonymous with the national culture. Am I correct, Madam President?

MR. DAVIDE. No, cultural heritage is not synonymous with the national culture.

BISHOP BACANI. At least it is heritage.

MR. DAVIDE. Madam President, there is a whale of a difference between culture and cultural heritage. I am sure Commissioner Bennagen can explain this matter.

BISHOP BACANI. Madam President, I believe that the cultural heritage of a nation is embraced within its national culture; otherwise, we will be speaking of something in the abstract.

MR. GUINGONA. Madam President, the committee has accepted the proposed amendment. In view of the objection of Commissioner Bacani, perhaps we could put this to a vote.

VOTING

THE PRESIDENT. As many as are in favor of the second sentence which was read by Commissioner Davide and accepted by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 27 votes in favor and 1 against; the second sentence of Section 2 is approved.

MR. GUINGONA. Madam President, the committee is now ready to hear the proposed amendment of Commissioner Aquino regarding acquisition, exportation and so forth, which will now be, if approved, subsection 3 of the section on arts and culture.

MS. AQUINO. "ALL THE COUNTRY'S ARTISTIC AND HISTORIC WEALTH CONSTITUTES THE CULTURAL TREASURE OF THE NATION AND SHALL BE UNDER THE PROTECTION OF THE STATE WHICH MAY PROHIBIT OR REGULATE ITS EXPORT AND ALIENATION."

On second thought, I would delete the words "PROHIBIT OR," such that it would read now: ". . .UNDER THE PROTECTION OF THE STATE WHICH MAY REGULATE ITS EXPORT AND ALIENATION."

MR. GUINGONA. The committee accepts the proposed amendment, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May we delete the words "EXPORT AND ALIENATION" and in lieu thereof we insert the word "DISPOSITION" so it will read: "WHICH MAY REGULATE ITS DISPOSITION," without having to talk about exports and alienation.

MS. AQUINO. Also, the word "DISPOSITION" likewise contemplates export and alienation. I accept.

MR. GUINGONA. The amendment of Commissioner Monsod is also accepted.

THE PRESIDENT. Will Commissioner Aquino please read her amendment. Is this a new section?

MR. GUINGONA. Yes, Madam President, this will now be Subsection 3 of the section on arts and culture.

THE PRESIDENT. The Commissioner may proceed.

MS. AQUINO. "ALL OF THE COUNTRY'S ARTISTIC AND HISTORIC WEALTH CONSTITUTES THE CULTURAL TREASURE OF THE NATION AND SHALL BE UNDER THE PROTECTION OF THE STATE WHICH MAY REGULATE ITS DISPOSITION."

MR. ABUBAKAR. Madam President.

THE PRESIDENT. Commissioner Abubakar is recognized.

MR. ABUBAKAR. I would like to interpellate the young lady.

We have defined already national culture and its preservation. Can the Commissioner's proposal not be contained in a legislative act instead of putting it in the Constitution? Because if we put everything in the Constitution – and this is a proper subject for legislation – we will have a constitution that probably will contain so many provisions and may compose two volumes of a book.

The Constitution should be comprehensive. If it is already treated as a national treasure and all that, then to implement this constitutional proviso, I ask Commissioner Aquino if she is satisfied with merely letting Congress pass a legislation to protect and preserve this national treasure, instead of a constitutional proviso.

MS. AQUINO. Is the Commissioner suggesting that the intent of Section 1 or the flagship provision, the amendment of Commissioner Ople, and the amendment of Commissioner Davide would cover this section? I would humbly submit it does not, because it was made explicit that the essence of the flagship provision is essentially culture, the dynamics of culture, having its own logic, having its dynamics for growth, allowing for its own development. While Commissioner Davide would refer to arts and letters as a heritage, it is by itself an institution.

The intent of this section is to give explicit constitutional mandate for the preservation and conservation of the country's cultural treasure and it is not included in the tenor of the first two sections which were previously approved and adopted.

MR. ABUBAKAR. But was Commissioner Aquino or the Commission not satisfied by a congressional act which will, in the same tone and line, perhaps provide even the penalty for the violation of any of the concepts or any of the ideas that we feel should be sanctioned by law to protect precisely the national treasure mentioned in the Constitution? Must we still insert that in the Constitution?

MS. AQUINO. I humbly submit that there is an imperative for a decisive mandate that will arrest the drain of the country's treasury of its cultural and historical wealth.

Before the present dispensation, there was an untrammeled release of the country's treasures through exports and unregulated sale and disposition, and this provision would intend to address itself to arresting that kind of a trend.

MR. ABUBAKAR. I laud Commissioner Aquino's ideas; I am behind her proposal. But what I am just saying is that if this could be enacted into a law, with all the penalties, that would satisfy the purpose, because in the two or three articles on the constitutional proviso referring precisely to this matter, we have shown our appreciation for the national treasure and then, by legislative implementation, provide for the protection and the penalty.

If we are going to put all matters into the Constitution regarding certain ideas or certain protection that we will accord to a particular policy, then I do not know how long this Constitution will be.

I am not against the Commissioner's idea; I would support this, but what I believe is its proper place, whether by law or in Congress.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. This provision would actually need supplementary statutory implementation but it is my submission that this has to attain to the level of a constitutional mandate.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

With kindest respect and I hope my friend will pardon me, I join Commissioner Abubakar in his arguments against the amendment. I believe that the Aquino amendment is already covered by the second part of the Davide amendment which provides that the State shall protect, conserve and promote the nation's historical and cultural heritage, and that provision finds implementation in Section 2 of RA 4846 which reads:

> It is hereby declared to be the policy of the State to preserve and protect the cultural properties of the nation and to safeguard their intrinsic value.

Under this RA 4846, exportation of artistic objects and cultural treasures of the nation is regulated and/or prohibited by the State.

So, I think what is contemplated in the Aquino amendment is purely a matter of legislation which is already covered by the Cultural Properties and Preservation Act.

Thank you, Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Aquino yield to just a question?

MS. AQUINO. Gladly.

MR. OPLE. During the presidency of Ramon Magsaysay, I think it was about 1957 before his death, we succeeded in recovering the insurgent Philippine records from the United States. We will recall that in the Bureau of Libraries at that time, troops had to be posted in order to protect the microfilm copies of the insurgent records of the Philippine Revolution and the Philippine-American War because of certain reportedly libelous insinuations against the honor of some families whose members at that time were accused of collaborating with the Americans. It could excite such passions in 1957.

But this reminds me that in Spain, I happen to visit the *Archivos de Indias* in Sevilla where I was dumbfounded by the sheer wealth of materials concerning the Philippine past. Some of those parchments were already graying, yellowed and breaking apart. And yet, that could be a stupendous loss in terms of the cultural and historical wealth that Commissioner Aquino was concerned about.

Under this proposed amendment, are we tasking the State with the obligation to bring back to this country all of these priceless memorabilia, artifacts and legacies from our past?

MS. ROSARIO BRAID. Yes.

MR. OPLE. I am talking of this tremendous cultural wealth pertaining to our country lying in foreign archives, one of which was recovered by Magsaysay, but the rest of which are still lying and in danger of rapid deterioration and destruction in foreign archives.

Should Commissioner Aquino not expand the sentence somewhat so that this task is also built into that and so that Commissioner Abubakar, with good grace, can forget about the charge of redundancy? It will impart to this sentence a very important task of the State to recover our cultural wealth abroad.

MS. AQUINO. At first sight that kind of a situation could be adequately contemplated by the first part of the provision which reads:

> It shall constitute the cultural treasure of the nation and shall be under the protection of the State. It could, likewise, contemplate deliberate action on the part of the State to recover those treasures.

MR. OPLE. Does the Commissioner want to direct Congress to enact a law that will help bring back these treasures to our country or, at least, reasonable facsimiles or copies of these treasures?

MS. AQUINO. Yes.

MR. OPLE. Thank you, Madam President.

MR. ABUBAKAR. Madam President, I would like to call the attention of my distinguished colleague.

THE PRESIDENT. Is there any other speaker?

MR. RAMA. No more, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. With due respect to Commissioner Aquino, may I express my serious observations with regard to her proposal. I will agree with Commissioner Nolledo that this amendment is covered by the two flagship sections – one proposed by Commissioner Ople and the other proposed by Commissioner Davide and approved by this body.

The Davide proposal which was adopted by this body speaks of conservation and promotion of the nation's historical and cultural heritage and resources.

If we look at Section 2 of the committee report, it speaks of recognition, respect, protection and preservation of cultures, traditions and institutions of indigenous communities.

So, I think this proposal is well covered by the two flagship sections and the next succeeding section.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. We cannot overemphasize the need for protection of the country's culture. The country's culture is its soul and spirit, and it is fleshed out by specific artistic and historical artifacts which comprise the country's cultural wealth. It deserves the best protection possible from the State.

MR. BENNAGEN. Madam President.

MS. ROSARIO BRAID. Madam President.

MR. RAMA. Madam President, the subject of the amendment is ready for a vote.

MR. BENNAGEN. Madam President.

THE PRESIDENT. How about the committee? Commissioner Bennagen is recognized.

MR. BENNAGEN. The committee, it seems, is divided, but I would like to speak in support of the Aquino amendment. It has been our experience in the cultural field, particularly in archaeology and anthropology in general, that several national treasures have been shipped out of the country and because the direct economic significance of these is not immediately recognized, they are neglected. Only when researchers feel that there is a need for these do they invoke the laws.

The republic act has been honored more in the breach rather than its serious implementation. We feel that the constitutional provision will put more teeth in the protection of national treasures which is, in effect, the protection of our national identity.

MR. NOLLEDO. Madam President, just one short statement.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I find no fundamental difference between statutory law and a provision in the Constitution. I think both will also be more honored in breach than in observance, if the authorities of the country are corrupt and do not observe the law. So, with the kindest respect to Commissioner Aquino, I still object to her amendment.

MR. GUINGONA. Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. The committee would like to recall that in the interpellations between Commissioners Ople and Rosario Braid of our committee, this matter of exportation and recovery of the Davide amendment was brought out by Commissioner Rosario Braid. Perhaps, we could also credit Commissioner Rosario Braid for this idea.

MS. ROSARIO BRAID. Madam President, I asked Commissioner Davide whether the concept of recovery which I documented in terms of all the treasures in Europe would be included in his amendment and he said yes. Actually, we fully support this provision as long as it is separate from what Commissioner Davide has already suggested. Earlier, he said yes when I interpellated him about the concept of recovering these treasures which we fully support because we have a number of people who have come to us saying that they are disturbed about the fact that we do not have the best of all our treasures since they are out of the country.

MS. AQUINO. If the committee accepts the amendment, then we will have jurisdiction in terms of sequencing of the amendment.

MR. GUINGONA. We accept the amendment. May we request that Commissioner Rosario Braid be considered as a cosponsor. Madam President, this has been already discussed sufficiently. May we ask for a vote.

THE PRESIDENT. Is it correct that I heard, or rather I may not have heard correctly, that the committee is divided? So the committee now accepts; is that correct, Commissioner Guingona?

MR. GUINGONA. Yes, Madam President, we have accepted.

VOTING

THE PRESIDENT. The committee accepts.

As many as are in favor of this proposed amendment of Commissioner Aquino, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 19 votes in favor and 8 against; the amendment is approved.

MR. GUINGONA. Madam President, may we request Commissioner Bennagen to read the next proposed section.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Madam President.

This is Section 2 of the committee report:

> The State shall recognize, respect, protect and preserve the cultures, traditions and institutions of indigenous communities and shall consider them in the formulation of national plans and policies.

This is actually from the 1973 Constitution with only a minor change in the word "indigenous."

MR. RAMA. Madam President, I ask that Commissioner Garcia be recognized.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Thank you, Madam President.

I would like to propose an amendment to this Subsection 2: "The State shall recognize, respect and protect THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES TO PRESERVE AND ENRICH THEIR CULTURES, TRADITIONS AND INSTITUTIONS. IT SHALL CONSIDER THESE RIGHTS in the formulation of national plans and policies." Very briefly, it simply puts the stress on the fact that it is the people and the cultural communities who will preserve and enrich the cultures and not so much the State. I would like to see this idea reflected in this amendment.

MR. GUINGONA. Madam President, the committee accepts the proposed amendment.

THE PRESIDENT. Are there any comments?

MR. RAMA. Madam President, I ask that Commissioner Bacani be recognized on the same section.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, if the amendment of Commissioner Garcia will be accepted then my concern is covered. I am afraid that if the State will be the one to preserve the cultures, it may mean fossilizing the cultures of the indigenous communities. However, the way the amendment is stated by Commissioner Garcia, I am fully agreeable if the people are determined to preserve their culture; and if they move on to develop them, so much the better. But then, I would yield to that amendment completely.

Thank you.

MR. BENNAGEN. Madam President, in view of the excellent explanation by Commissioner Garcia, on the need to respect the rights of the people themselves to the determination of how they will want to deal with their culture, we are accepting the amendment.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. May I know from the committee that has accepted the formulation of Commissioner Garcia whether the word "recognize" is not covered by the term "respect and protect," because if we respect and protect, naturally we have to recognize. Do we need the word "recognize"?

MR. BENNAGEN. For purposes of emphasis, we feel that it may be necessary, because sometimes we say that we respect, but recognition entails a deeper sense of cognitive appreciation of the significance of these cultural differences.

MR. MAAMBONG. Thank you.

I will have no amendment.

MR. RAMA. The body is ready to vote.

THE PRESIDENT. Are we now ready to vote? Will Commissioner Garcia please read the said section? Actually, that is Section 4 now. Is that correct?

MR. GUINGONA. Yes, Madam President. This is the new Section 4. I will refer to this now as section instead of subsection, Madam President.

THE PRESIDENT. Will Commissioner Garcia please proceed.

MR. GARCIA. "The State shall recognize, respect and protect THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES TO PRESERVE AND ENRICH THEIR CULTURES, TRADITIONS AND INSTITUTIONS. IT SHALL CONSIDER THESE RIGHTS in the formulation of national plans and policies."

THE PRESIDENT. Is there any objection to this section which has been accepted by the committee? *(Silence)* The Chair hears none; the amendment is approved.

MR. GUINGONA. Madam President, may we request that Commissioner Bennagen be recognized to read the next proposed section.

MR. BENNAGEN. As earlier manifested, Section 3 and Section 3(a) – at least the essence of these two provisions – have already been incorporated in the flagship provision. We will now proceed to Section 3(b) of the committee report. Let me read:

> The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, and scholarships, grants, and other incentives.

MR. RAMA. Madam President, I ask that Commissioner Garcia be recognized.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Regarding this section, I would like to add some ideas concerning the establishment of community cultural areas, facilities and the venues for the development of the culture of the communities. So, therefore, I would like to add the following sentence to the section that was read by Commissioner Bennagen. After the words "other incentives," add "AND BY ENCOURAGING THE ESTABLISHMENT OF REGIONAL AND COMMUNITY CULTURAL CENTERS, PEOPLE'S ART PARKS, AND OTHER PUBLIC FACILITIES THAT SHALL SERVE AS SANCTUARIES FOR FOLK AND TRADITIONAL ARTS AND CRAFTS AND VENUES FOR COMMUNITY CULTURAL ACTIVITIES AND ART EXPERIMENTATION."

Very briefly, this is to decentralize and make possible at the local and community levels the development of their own culture. As we mentioned earlier, culture is a very dynamic thing. It is, in fact, an event and also a happening in the area. Therefore, to facilitate this for the people and to make it a real, vibrant and living experience, the State should provide these venues, but the people themselves must participate and keep their culture alive and developing. So, this is the intent of the addition.

MR. GUINGONA. Madam President, Commissioner Rosario Braid would like to ask a question.

MS. ROSARIO BRAID. May I just ask one question.

In terms of additional expenditures from the government, will this involve establishing new centers or will this build on economic livelihood centers and cultural centers, so that we do not have to establish new infrastructures?

MR. GARCIA. Exactly. The intent is not so much constructing the physical centers. There may already be existing physical areas, like schools, livelihood centers, cooperative centers and so on, but the idea is to promote cultural activities where, for example, painting, poetry, theatre, or song can actually be made very much a part of the life and the activities of the communities in the country.

MS. ROSARIO BRAID. Will this also include decentralizing and having a little of the "Tatak Pinoy" type of exhibit which really encourages local craftsmanship?

MR. GARCIA. Yes, exactly. There are many different avenues or areas where this can be experimented.

MR. BENNAGEN. May I ask one question?

MR. GUINGONA. Commissioner Bennagen would like to ask a question.

MR. BENNAGEN. We like the idea of democratized venues for cultural expression, but what is the intent or the use of the word "SANCTUARIES"? In its usage, it connotes that one seeks refuge. Is it the intent of the provision that folk and traditional arts and crafts shall seek refuge in these?

MR. GARCIA. It is very often in the open plains of culture that we are barraged by Western music or by the different dominant expressions of Western arts and literature. And, therefore, here we are trying to create venues or areas where there is protection for our own local and national culture to flourish and grow.

MR. BENNAGEN. Could we just have "VENUES" instead of "SANCTUARIES"? We feel that in the interplay of cultures there must be full play or interaction between and amongst cultures.

MR. GARCIA. I would accept that.

MR. OPLE. Madam President, I was going to make the same proposal but now that the committee is making it, I think I have no further business here.

Thank you.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I just want to ask of Commissioner Garcia the difference between a people's park and a park. Is it a park really for everybody? I do not know why we are going to make a distinction between the words "people's park" and the word "park."

MR. GARCIA. Our experience, at least in the recent past, has been that as to the many parks that we have had, their uses have been so limited. I remember in the Lakbayan of 1984, we went to the Freedom Park and we could not even speak in that park. We go to a park very often, but the use is restricted or limited. What we want to do is to allow these parks to be the sites for exhibits of paintings and other cultural activities.

MR. MONSOD. When we call them people's park, will there be more room for people?

MR. GARCIA. No, the change of the name does not necessarily mean that a change of use should also follow.

MR. MONSOD. I suggest that we delete the word "PEOPLE'S"; we just say "ART PARKS."

MR. GARCIA. If the Commissioner wishes to use the said words it is fine with me. I simply want to stress the intent here – that we create this park in such a way that people know it is for them and that they can utilize it to allow their local talents and artistic inclinations to develop.

MR. MONSOD. May I also propose to delete the word "REGIONAL." We are just encouraging the establishment of community cultural centers that can be at any level: municipal, provincial, regional.

MR. GARCIA. That is also acceptable.

MR. GUINGONA. Madam President, the committee accepts the proposed amendment, as amended, and may we request Commissioner Bennagen to read the entire text of this proposed section.

MR. BENNAGEN. Thank you, Madam President.

"The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, and scholarships, grants and other incentives AND BY ENCOURAGING THE ESTABLISHMENT OF COMMUNITY CULTURAL CENTERS, ART PARKS AND OTHER PUBLIC FACILITIES THAT SHALL SERVE AS VENUES FOR FOLK AND TRADITIONAL ARTS AND CRAFTS AND FOR COMMUNITY CULTURAL ACTIVITIES AND ART EXPERIMENTATION."

MR. GUINGONA. Madam President, I think we are ready to vote.

VOTING

THE PRESIDENT. As many as are in favor of this particular section, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

As many as are abstaining, please raise their hand *(One Member raised his hand.)*

The results show 23 votes in favor, 1 against and 1 abstention; the amendment is approved.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Before we proceed, there was a previous manifestation of the committee that Section 3 and both the opening sentence and subsection (a) thereof were already included in the flagship provision of Commissioner Ople.

MR. GUINGONA. That is right, Madam President.

MR. DAVIDE. But there was no formal motion to delete the same.

MR. GUINGONA. Madam President, we are now making the formal motion to delete the first paragraph and subsection (a) of the former Section 3.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. GUINGONA. May we respectfully request that Commissioner Bennagen be allowed to read the next subsection of this section.

MR. BENNAGEN. Thank you.

This is Section 3(c) of the committee report: "The State shall encourage and support cultural research and studies." We already deleted the words "scientific and" in view of the provisions already approved in the subsection on science and technology.

THE PRESIDENT. So, we put a period after the word "research"? Is that correct?

MR. BENNAGEN. No, we deleted the words "scientific and." It will now read: "The State shall encourage and support cultural research and studies."

MR. RAMA. The body is ready to vote, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I would propose this amendment. Delete the word "cultural"; then "research" should be plural. Is that plural already?

MR. GUINGONA. No, not yet.

MR. DAVIDE. Therefore, the word "research" should be made plural and after the word "studies," add the following: "ON THE ARTS AND CULTURE." So the whole subsection will read: "The State shall encourage and support RESEARCHES and studies ON THE ARTS AND CULTURE."

MR. GUINGONA. We accept the proposed amendment.

THE PRESIDENT. Is there any objection?

Commissioner Bacani is recognized.

BISHOP BACANI. I just like to point out to the committee that there will be a change of meaning if we accept the Davide amendment. "RESEARCHES and studies ON THE ARTS AND CULTURE" will mean that the subject matter of the researches will be the arts and culture while cultural research and studies will be wider than that.

MR. BENNAGEN. Not necessarily. The idea is to distinguish between research done in the natural and social science fields and research done on the humanities. In effect, this is the essence of this provision.

BISHOP BACANI. Thank you.

THE PRESIDENT. Is there any objection to this particular section?

MR. GARCIA. Madam President.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Is it possible to add another idea to the Commissioner's concept of research and cultural studies by adding the dissemination of the results of the studies? Originally, I had an amendment to Section 3(a), but I was thinking perhaps we could add it here by saying: "THE STATE SHALL PROMOTE AND SUPPORT THE POPULARIZATION AND DISSEMINATION OF OUR CULTURAL TRADITIONS AND SIGNIFICANT ARTISTIC CREATIONS OF INDIVIDUAL ARTISTS AND COMMUNITIES."

Is it possible to add this concept not necessarily in this phraseology to that part?

MR. BENNAGEN. Yes.

MR. GUINGONA. Yes, that can be added. I think Commissioner Rosario Braid would like to react.

MS. ROSARIO BRAID. Madam President, I think Commissioner Garcia's proposal can be related because his proposal is to popularize research, and this is linked with each other. Research is useless unless it is popularized. In terms of the Commissioner's concept, does this mean using the various mass media like radio, television, comic books and various publications for dissemination? What would popularization mean? Through what media will art be popularized?

MR. GARCIA. It will be a multimedia popularization. In other words, if it is a song, it is by means of oral popularization, through radio, cassettes and actual singing of our different folk songs in different regions of the country. The same way with theater, we dance, and this is also one way of building a strong national consciousness. That is why I think this is very important.

MR. GUINGONA. Madam President, may we request Commissioner Bennagen to read the section as amended and as accepted by the committee.

MR. BENNAGEN. Before we do that, we said that we would like to incorporate the essence of that provision in the already read Section 3(c). Would Commissioner Garcia like to propose this as a different section? To include it in Section 3(c) would mean that popularization and dissemination will have to do only with research, when in fact this popularization and dissemination could be an independent activitiy.

MR. GUINGONA. Madam President, may we inquire whether Commissioner Garcia is amenable to that suggestion.

MR. GARCIA. If that is what the Commissioner wishes, I could then restate the original formulation that I had.

MR. GUINGONA. Later, after we finish with this.

Madam President, may we ask Commissioner Bennagen to read again the proposed section for consideration of the body.

MR. BENNAGEN. This is Section 3(c) as amended by Commissioner Davide. "The State shall encourage and support RESEARCHES ON THE ARTS AND CULTURE."

MR. GUINGONA. Madam President, we are ready to vote on this proposal.

THE PRESIDENT. Is there any objection to this formulation which has been accepted by the committee and read by Commissioner Bennagen? *(Silence)* The Chair hears none; the amendment is approved.

MR. GUINGONA. May we respectfully request, Madam President, that Commissioner Bennagen be allowed to read the next section, subsection (d) of this section.

THE PRESIDENT. The Commissioner may proceed.

MR. BENNAGEN. Madam President, this is already the Garcia amendment and let me read: "THE STATE SHALL PROMOTE AND SUPPORT THE POPULARIZATION AND DISSEMINATION OF OUR CULTURAL TRADITIONS AND SIGNIFICANT ARTISTIC CREATIONS OF INDIVIDUAL ARTISTS AND COMMUNITIES."

THE PRESIDENT. This is accepted by the committee. Is there any objection?

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I have a feeling that this is already covered by the Ople omnibus amendment and that of the Davide amendment which reads partly as follows: "IT SHALL CONSERVE AND PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES." Does the word "PROMOTE" not mean popularization and dissemination? In fact, that was the answer of the committee when somebody questioned the meaning of "PROMOTE" in the context of cultural heritage and resources – to disseminate and popularize.

THE PRESIDENT. What does Commissioner Garcia say?

MR. GARCIA. My answer would be this: I believe this is a particular and concrete thrust that, I think, would enable us precisely to forge further our national identity and develop a consciousness of ourselves as a people. Although I admit that in general this may be included in the flagship statement, still this particularizes and makes effective that intent of the flagship statement.

MR. MONSOD. My suggestion is, instead of saying "PROMOTE THE NATION'S HISTORICAL AND CULTURAL HERITAGE AND RESOURCES," maybe the Commissioner can just add the words "AND POPULARIZE" after the word "PROMOTE." That will solve it rather than have an entirely new section.

MR. BENNAGEN. Is the Commissioner referring to Section 2?

MR. MONSOD. Section 2.

MR. BENNAGEN. Section 2. Then what would be the parliamentary situation in that case? Would that be a reconsideration of the already approved Section 2?

MR. MONSOD. No, I believe that would just be an insertion and a transposition of the idea that is being proposed now. It could even be a matter of style because the word "promotion" includes popularization.

MR. GARCIA. I think the situation is this. First of all, this is recommended as a special section to further strengthen that original statement. I would like, therefore, that this be presented to the body first and if this is not acceptable, perhaps we could then request that it be inserted as a further amplification of that section.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Madam President, the notion of the word "promotion" includes also promotion of cultural research on arts and culture. So, if we will combine this proposal in one section to read after the provision which we have just approved, that is: "The State shall encourage and support RESEARCHES and studies ON THE ARTS AND CULTURE, PROMOTE AND SUPPORT THE POPULARIZATION AND DISSEMINATION OF OUR CULTURAL TRADITIONS. . . ." this could be only one section. These would all fall under the concept of promotion. So, I will support thoroughly the notion of popularization because unless art is popularized we cannot possibly instill or inculcate the cultural consciousness. So we can do basic research, but unless we popularize and disseminate it, it is useless.

MR. GUINGONA. Madam President, I think the matter of whether or not it will be inserted in the previously approved section would be a matter of style and, therefore, what we should vote on is the concept. May we ask that the body vote on the proposal of Commissioner Garcia, without prejudice to either making it a separate section or including it in the previous section as suggested by Commissioner Rosario Braid.

MR. BENNAGEN. Or even integrating it into the already approved Section 3(c).

MR. GUINGONA. We leave that to the Committee on Style and the Committee on Sponsorship.

MR. BENNAGEN. Yes, we can agree on the essence of the combination of research and popularization.

MR. GUINGONA. May we ask Commissioner Bennagen to read again the proposed section for consideration by the body before we vote, Madam President?

MR. BENNAGEN. I do this on the understanding that we are voting on the concept of popularization. It reads: "The State shall promote AND SUPPORT THE POPULARIZATION AND DISSEMINATION OF OUR CULTURAL TRADITIONS AND SIGNIFICANT ARTISTIC CREATIONS OF INDIVIDUAL ARTISTS AND COMMUNITIES."

MR. GUINGONA. We are now ready to vote, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of the concept of popularization, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 16 votes in favor and 5 against; the proposed amendment is approved.

MR. GUINGONA. Madam President, we respectfully move for the deletion of Section 3(d) of our original proposal because the subject matter has already been approved in this section on science and technology.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. GUINGONA. Madam President, may we respectfully request that Commissioner Bennagen be allowed to read the last section under arts and culture.

MR. BENNAGEN. Hopefully also with the Commissioner's very generous approval, Section 3(e) of the committee report was amended in a very minor way by the committee. It reads:

> There shall be an independent central authority to formulate, disseminate and implement the cultural policies and programs.

MR. MONSOD. Madam President.

THE PRESIDENT. Is there any objection?

Commissioner Monsod is recognized.

MR. MONSOD. I move to delete this paragraph. This is against the very concept that the committee itself was espousing when it talked about its objection to the word "patronage." The idea of an independent central authority, no matter how we couch it with the word "independent," will still rely a lot on the State.

Secondly, we already have a Ministry of Education, Culture and Sports. Therefore, I do not see there is still a need for such an independent central authority just for the purpose of launching cultural policies and programs. Even if we take out the words "of the State," that is what it means.

MR. BENNAGEN. Madam President, in the deliberations of the subcommittee and the committee, the meaning attached to independence is in relation to the intervention of changing administrations. As envisioned, the idea is really to involve as many sectors as possible in the formulation and dissemination of cultural policies and programs. It is a sad fact that there are many cultural activists who are high on enthusiasm, but very poor in terms of government support. There might be an apparent contradiction or inconsistency, but we feel that if carried on as envisioned in terms of democratic participation, a certain degree of independence could still be attained.

MR. ROMULO. Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. I believe that the same reasons enumerated by the chairman of the committee against the Sarmiento amendment with regard to a centralized technology and science council apply exactly the same to this proposal.

MR. BENNAGEN. Madam President, if this is any worth at all, we did refer this to the Ministry of Education, Culture and Sports. They were of the opinion that as far as Deputy Minister Victor Ordoñez has indicated, and I understand in consultation with the Minister of Education, Culture and Sports, due to the sheer size of the ministry, they are supportive of the idea of having a separate authority on culture.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. There has been a lot of work accomplished by a group that has done preparatory work for the Ministry of Education, Culture and Sports. They have completed feasibility studies and a number of other studies. When we asked the MECS about the possibility of including other sectors, such as communication which we recognize as very important, but which does not have any commission to develop or to expand it, they were not against the idea. So rather than lose the idea of a commission on culture, we could expand this to include other concerns related to culture, such as communication. We have several models in other countries like Malaysia and Singapore where culture and communications go together. So, this is perhaps the way we could consider this concept.

MR. MONSOD. Madam President, I would object even more if this central authority would also include communications, because we might have another Cendaña organization. Remember, we are constitutionalizing this.

MR. REGALADO. Madam President.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Regarding the envisioned body, as far as the deliberations show and what the participants in the consultation pointed out, the body shall coordinate, support and supervise all activities which are now being performed by the CCP, FAT, PICC, MPC, Metropolitan Museum, Metropolitan Theater, MOPA, Makiling Art Center, Nayong Pilipino, Intramuros Administration Complex, National Parks, Children's Museum and Library, National Museum, National Library, National Archives, National Historical Institute and all other government bodies connected with the above.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Just for clarification.

Do we understand from the answer of Commissioner Rosario Braid that Minister Quisumbing and her deputy ministers are willing to be divested of jurisdiction over culture from the ministry?

MS. ROSARIO BRAID. Commissioner Bennagen will please answer.

MR. BENNAGEN. I was the one who pointed that out. That was my understanding when we consulted the Minister of Education, Culture and Sports.

MR. REGALADO. Is that ministry also willing to be divested? The Commissioner said that this sprawling ministry is to be divested also of jurisdiction over sports, so that it will be purely a Ministry of Education.

MR. BENNAGEN. And Sports. That is our understanding, but also subject to the provision that there shall be coordination.

MR. REGALADO. We understand that up to now the Presidential Commission on Governmental Reorganization has not yet come out with a tentative report. And yet we are proceeding on that assumption which is still speculative and at the same time, in anticipation thereof, we already provide for an independent agency here.

MR. BENNAGEN. Madam President, I do not have the document now, but I understand from Deputy Minister Ordoñez that this is in fact already contemplated by the Villafuerte commission.

MR. REGALADO. Assuming that this is so, but there is no such provision here in this article, does the committee believe that it will prevent Congress from creating such an agency without the need of a constitutional mandate since, after all, the matter of promotion, conservation and protection of our cultural heritage and resources is already mandated?

MR. BENNAGEN. In the absence of an explicit prohibition, we do not see any possible inaction on the part of Congress on the creation of this kind of committee.

MR. REGALADO. In other words, I raised this question because we are having a constitutional mandate, but we are not yet sure how the governmental reorganization will result, and we may have this situation where we will have two competing agencies. So, at any rate, even if we do not provide for such an agency right here, since we have mandated protection, if not patronage of the State over our cultural heritage, Congress could always later, when things have jelled and already been clarified, create an agency for this purpose.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I concur with the suggestion of Commissioner Monsod for the deletion of this paragraph and I also concur with the statement made by Commissioner Romulo.

Madam President, I was happy when I heard Commissioner Guingona recommend the deletion of a section, but I have been noticing that many sentences or sections are being added with many details, which probably is the function of the Congress to provide and to implement. It seems that this Commission wants to do everything and leave nothing for Congress to do.

Madam President, I had two simple sentences under the section on sports, and there was a vote for deletion as being too long, and yet, when others make suggestions or additional concepts which are repetitious and redundant, there seems to be always an acceptance from the committee.

I am afraid, Madam President, that instead of having a Constitution that conforms with standards of general concepts and basic principles, we are going into too many details which should be the province of the Congress to provide depending upon future circumstances.

Madam President, the honorable Members of this Commission should not take the attitude that they can provide for all the remedies and solutions to all the problems of the nation.

Thank you, Madam President.

THE PRESIDENT. Is the committee insisting?

MR. GUINGONA. Madam President, in view of the objection raised, may we respectfully suggest that this matter be put to a vote.

VOTING

THE PRESIDENT. So, the committee is insisting on a vote.

As many as are in favor of the motion of Commissioner Monsod to delete the last section on page 7 of the committee report, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 23 votes in favor, 7 against and 1 abstention; the deletion of Section 7 is approved.

MR. GUINGONA. Madam President, there is only one more item not under arts and culture before the Committee on Human Resources finishes its presentation of its work. This has to do with the section on Science and Technology which was reserved earlier until Commissioners Nolledo and Sarmiento are able to come up with a proposal. After this, we would be through as far as the Committee on Human Resources is concerned.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 4:56 p.m.

RESUMPTION OF SESSION

At 4:57 p.m., the session was resumed with Commissioner Romulo presiding.

THE PRESIDING OFFICER (Mr. Romulo). The session is resumed.

MR. RAMA. Mr. Presiding Officer, may I ask that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Mr. Romulo). Commissioner Sarmiento is recognized.

MR. SARMIENTO. Thank you, Mr. Presiding Officer.

Before I revive my controversial amendment, may I ask one question of the committee. Will Section 1 on Science and Technology mean that Congress shall take steps to strengthen and expand the functions and activities related to science and technology?

MS. QUESADA. Definitely.

MR. SARMIENTO. Then I respectfully withdraw my proposed controversial amendment.

MR. GUINGONA. Mr. Presiding Officer, with that, the Committee on Human Resources finishes its work. *(Applause)*

MR. RAMA. I move that we close the period of amendments on the Article on Education, Science, Technology, Sports, Arts and Culture.

THE PRESIDING OFFICER (Mr. Romulo). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Is there any other motion?

MR. RAMA. I move that we vote on Second Reading on the same article.

THE PRESIDING OFFICER (Mr. Romulo). Is there any objection?

ADJOURNMENT OF SESSION

MR. RAMA. Because of the objection of some Members, Mr. Presiding Officer, I move that we adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Romulo). The session is adjourned until tomorrow at nine-thirty in the morning.

It was 4:59 p.m.

R.C.C. NO. 81

Friday, September 12, 1986

OPENING OF SESSION

At 9:38 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Jose E. Suarez.

Everybody remained standing for the Prayer.

PRAYER

MR. SUAREZ. Dear Lord, this morning, we pause briefly for a group picture-taking: a composite group with diverse backgrounds, disparate ideas, laboring to attain an illusive ideal: To craft, with Your Divine Guidance, a solid nationalist pro-people charter. This may be the only occasion we will ever group happily together, a fleeting moment I cherish.

Muslims, Tagalogs, Cebuanos, Ilonggos, Ilocanos, Pampangueños – Filipinos above all – pictured together, unity in diversity indeed, a bunch of Runyonesque characters I have learned to love and to respect.

Shower upon them, dear Lord, all Your blessings. Bless this law professor who yells like an excited jungleman, but whose heart is as big as the Island of Palawan. Bless this law dean, whose tongue tries to catch up with the rapidity of his brainwaves, leaving him breathless, necessitating his being rushed to the hospital for oxygen priming. Bless also this respected president of a private university, whom we had favored with fantastic tax exemptions, whose Mafia connections are belied by his soft purring voice, drawing sharp reminders from the Chair to "Speak louder, please." Bless likewise this exuberant evangelist, who gushes with joy at every approved provision, even if it is addressed against his big brothers. Bless this stern retired military officer, ideal of the position of military ombudsman to strike terror among the scoundrels and the scalawags in the army but *(stricken off the Record)*. Bless also this declared champion of every conceivable popular cause, whose stentorian voice could be heard all the way to Malacañang where, with the reluctance of a Julius Caesar spurning the crown thrice at the Lupercal, he may finally land.

Bless the Four Horsemen of the Apocalypse – one of whom is a lovable bully who jumps at everyone approaching the microphone, trying to gag him. Bless also the notorious Gang of Five, one of whom is a Gabriela who lashes back at everyone waving an imperialist flag.

But, dear Lord, preserve Your special blessings for this serene lady who manages crisis after crisis without a single strand falling from her well-coiffed head.

And, Lord, please do not forget to bless me too, now that I am about to enter the gates of Clark Air Base and Subic Base.

May God bless us all! Amen.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended so we can prepare for the mass we are offering for the speedy recovery of our colleague, Commissioner Rosales, and for all of us that we may enjoy good health. After the mass, we shall have a group picture-taking, and then we will resume the session.

It was 9:44 a.m.

RESUMPTION OF SESSION

At 11:38 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present	Bacani	Present
Alonto	Present	Bengzon	Present
Aquino	Present	Bennagen	Present
Azcuna	Present	Bernas	Present

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*Appeared after the roll call

Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present
Garcia	Present
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present
Maambong	Present
Monsod	Present
Natividad	Present
Nieva	Present
Nolledo	Present
Ople	Present
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Present
Sarmiento	Present
Suarez	Present
Sumulong	Present
Tadeo	Present
Tan	Present
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 47 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. Madam President, I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Petition and Communications, the President making the corresponding references:

PETITION

Petition of the Committee on the Legislative, signed by its Chairman, the Honorable Hilario G. Davide, Jr., earnestly requesting the Constitutional Commission to vote unanimously for the reopening of Sections 5 and 11 of the Article on the Legislative Power.

(Petition No. 3 – Constitutional Commission of 1986)

To the Steering Committee.

COMMUNICATIONS

Position paper submitted by Datu Zacarias T. Cotejar and Datu Bangkal Matanog of the Cultural Communities Association of Surigao del Sur, Inc., Dapja, Cabas-an, Cantilan, Surigao del Sur, urging the Constitutional Commission to grant the Manobo Tribe of Mindanao autonomous government.

(Communication No. 853 – Constitutional Commission of 1986)

To the Committee on Local Governments.

Letter from Mr. Pancho S. Domiar of Cotabato City, urging the Constitutional Commission to review the provisions of P.D. No. 704 because it is believed that there are provisions that make the rich richer and the poor poorer.

(Communication No. 854 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Angel V. Sanchez of San Jose, Antique, and 30 other signatories, submitting specific proposals to protect children from exploitation, white slavery and exposure to drug addiction.

(Communication No. 855 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Ramon R. Leuterio, 105 P. Cruz St., Mandaluyong, Metro Manila, expressing his views that in drafting the new Constitution, the gallery should be closed and the press should be banned to enable the Commissioners to work in privacy just like the 1787 U.S. Constitutional Convention wherein the members isolated themselves from the public to protect their integrity and reputations.

(Communication No. 856 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Benjamin C. Canlas of 5 Chaparral St., Rancho Estate II, Marikina, Metro Manila, suggesting that in the printing of money and minting of coins this motto shall be inscribed: "Ang lakas ng bayan ay galing sa Diyos."

(Communication No. 857 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Jovencio C. Bernardo of the Good Samaritan Association and 131 other signatories of Tacloban City, seeking the retention of the U.S. military bases in the Philippines.

(Communication No. 858 -- Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Ronolfo P. Goze of Buguey, Cagayan, containing various electoral reforms for consideration by the Constitutional Commission.

(Communication No. 859 – Constitutional Commission of 1986)

To the Committee on Constitutional Commissions and Agencies.

Letter from Mr. Alfonso O. Santiago of the Language Education Council of the Philippines, suggesting that the Constitution be written and promulgated in the national language.

(Communication No. 860 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Atty. Jovencio Bereber of Pres. Roxas, Capiz, submitting a number of constitutional proposals for consideration in the framing of the Constitution, notably those pertaining to declaration of principles, President and Vice-President, national legislature, national economy and transitory provisions.

(Communication No. 861 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Edgar U. Leuenberger, UP College of Pharmacy, submitting specific recommendations for inclusion in the Article on Education, Science, Technology, Sports, Arts and Culture.

(Communication No. 862 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Mr. Lunaz El Mismo of 264 N. Burlington Avenue, Los Angeles, California, submitting a number of proposals for consideration in the framing of the new Constitution, notably those pertaining to presidential and vice-presidential term of office, citizenship, national language and the U.S. military bases.

(Communication No. 863 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from the officers and members of the Sangguniang Panlungsod of Batangas City, signed by its presiding officer, Casiano T. Ebora, urging the Constitutional Commission to create a Commission on National Language.

(Communication No. 864 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Communication from Mr. Rizalito P. Barrientcs of 1051 Matimyas St., Sampaloc, Manila, and 59 other signatories, expressing conformity to the proposal to allow the people to cast "yes" votes for portions of the new Constitution they support and "no" votes for those they strongly dislike during the plebiscite on the draft charter.

(Communication No. 865 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letters urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, from:

(1) Pastor Alfredo K. Cudiamat
Faith Christian Church
Sta. Monica Subdivision
Dalandanan, Valenzuela, Metro Manila

(Communication No. 866 – Constitutional Commission of 1986)

(2) Polo-Obando Gospel Church, Inc.
Palasan, Valenzuela, Metro Manila

(Communication No. 867 – Constitutional Commission of 1986)

(3) Bishop Emerito P. Nacpil and Mr. Emmanuel G. Cleto
The United Methodist Church in the Philippines
900 U.N. Avenue, Manila

(Communication No. 868 – Constitutional Commission of 1986)

(4) Mr. Rolando Colangco and eight other signatories of San Jose, Dinagat, Surigao del Norte

(Communication No. 869 – Constitutional Commission of 1986)

(5) Ms. Marianita H. Teves
Mindanao Bible Training Institute
Cantilan, Surigao del Sur

(Communication No. 870 – Constitutional Commission of 1986)

(6) Rev. Toto B. Felongco
Southern Baptist Convention
97 Cayetano Bangoy St.
P.O. Box 94, Davao City

(Communication No. 871 – Constitutional Commission of 1986)

(7) Rev. Ernesto Bullag
Panay Alliance Church
Barangay Panay, Sto. Nino
South Cotabato

(Communication No. 872 – Constitutional Commission of 1986)

(8) Rev. Fr. Francisco C. Mangubat and 11 others
Iglesia Filipina Independiente
Diocese of Agusan and Surigao
Cortes, Surigao del Sur

(Communication No. 873 – Constitutional Commission of 1986)

(9) Mr. Venancio Salcedo and 12 others
Full Gospel Fellowship Centre
Viernes Subdivision, New Carmen
Tacurong, Sultan Kudarat

(Communication No. 874 – Constitutional Commission of 1986)

(10) Ms. Rosario J. Angana and 49 others
Faith Tabernacle
Dumaguete City

(Communication No. 875 – Constitutional Commission of 1986)

(11) Mr. Roldan E. Maquiling and 20 others
The Salvation Army Ozamiz City Corps

(Communication No. 876 – Constitutional Commission of 1986)

(12) Rev. Lemuel Felicio and 96 others
Christ Faith Fellowship
Bais City

(Communication No. 877 – Constitutional Commission of 1986)

(13) Carlatan Christian and Missionary
Alliance Church of the Philippines
Carlatan, San Fernando, La Union

(Communication No. 878 – Constitutional Commission of 1986)

(14) Rev. Damaso S. Bautista and Mr. Reynaldo I. Atienza
Capitol City Baptist Church
111 West Avenue, Quezon City

(Communication No. 879 – Constitutional Commission of 1986)

(15) Ms. Norma S. Marapao
Church of the Foursquare Gospel in the Philippines
Bislig, Surigao del Sur

(Communication No. 880 – Constitutional Commission of 1986)

(16) Ms. Sarah Mendoza and 22 others
Suaran Alliance Church
North Upi, Maguindanao

(Communication No. 881 – Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we take up for consideration this morning Proposed Resolution No. 537, prepared by the Committee on Preamble, National Territory, and Declaration of Principles, entitled: RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE DECLARATION OF PRINCIPLES.

The consideration includes Proposed Resolution No. 522 by the same committee. So, for the record, we are taking up Proposed Resolution No. 537.

THE PRESIDENT. Is there any objection?

MR. SUAREZ. Parliamentary inquiry, Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

I have with me the agenda for Session No. 81, scheduled for today, Friday, September 12, 1986, and I find that the Business for the Day is a discussion of Committee Report No. 28. However, I heard the Floor Leader saying that we are going to discuss Committee Report No. 36, which falls under the Unassigned Business because this is supposed to take precedence over Committee Report No. 31.

So, may I know, Madam President, what is the parliamentary situation in this regard?

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 11:50 a.m.

RESUMPTION OF SESSION

At 11:53 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Committee Report No. 28 or Proposed Resolution No. 522 in a partial report of Committee Report No. 36 or Proposed Resolution No. 537 is the complete report of the committee.

May I ask that the Steering Committee chairman be recognized?

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, this has a precedent because the same thing happened with regard to the Article on Local Governments. The Committee on Local Governments had a partial report which was already calendared as the Business for the Day. Thereafter, they submitted their complete report. So, when the Local Governments Committee sponsored the article, both committee reports were taken together. This is the same case with this Article on the Declaration of Principles, Madam President. Committee Report No. 28 is a partial report which was calendared as the Business for the Day. Thereafter, when Commissioner Tingson came back, the committee met and they presented Committee Report No. 36. Therefore, these two reports should be taken together simultaneously.

THE PRESIDENT. I believe that this is more of a mistake of the Secretariat, not having transferred Proposed Resolution No. 537, together with Proposed Resolution No. 522, to the Business for the Day. Is Commissioner Suarez satisfied?

MR. SUAREZ. Actually, we have no objection to a full-blown discussion of both Committee Report Nos. 28 and 36. However, there is a parliamentary impediment in the sense that Committee Report No. 36, if it is an error committed on the part of the Secretariat, falls under the Unassigned Business, and there is a committee report that takes precedence over Committee Report No. 36, and that is Committee Report No. 31.

So, Madam President, we might as well resolve this parliamentary situation – whether indeed we are going to discuss Committee Report No. 36, together with Committee Report No. 28, and lay aside in the meantime Committee Report No. 31, which was submitted by the Committee on General Provisions for a later deliberation.

THE PRESIDENT. What does the Steering Committee chairman say?

MR. BENGZON. As stated, Madam President, there was a precedent on this, and the body had no objections before in considering the two reports of the Committee on Local Governments, although one was calendared as the Business for the Day and the other came later.

And so, I feel that the body should have no qualms in considering Committee Report No. 28, together with Committee Report No. 36, considering that both refer to the same article and to the same subject matter.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. I join the honorable chairman of the Steering Committee for, in fact, in his scheduling of August 18, 1986, he scheduled Committee Report Nos. 28 and 36, together with the report on Family Rights and Duties. The Secretariat must have committed a typographical error in the order of the Business for the Day as stated by the Chair a while ago.

Thank you, Madam President.

THE PRESIDENT. So then the business before the body today is a joint consideration of Committee Report No. 28 and Committee Report No. 36. But the Chair would like to know from the members and the honorable chairman of the committee which particular report should be considered. Is Committee Report No. 28 already incorporated in Committee Report No. 36? If so, then Committee Report No. 36 should be the basis of our discussion.

MR. BENGZON. Yes.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Yes, Madam President, they are incorporated. I am speaking on behalf of our chairman who is here but who is indisposed.

MR. GARCIA. Madam President.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Thank you very much, Madam President.

I would like to make an inquiry to the chairman of the Steering Committee. It was our understanding during a previous caucus we had regarding the scheduling that we shall discuss the Article on the Declaration of Principles after we shall have discussed the majority of our committee reports.

I was wondering if it was decided that the article would be discussed before the Article on General Provisions.

MR. BENGZON. Madam President, may I look back to what actually happened. The first request was for the Article on the Declaration of Principles to be calendared as the last article for consideration, even later than the Transitory Provisions. And in a caucus that we had, it was agreed, based on the manifestation of the vice-chairman of the Committee on the Declaration of Principles when he said that he had spoken to the chairman, that the Article on the Declaration of Principles should not be the last but it should be discussed prior to the Transitory Provisions. And so in that caucus, Madam President, it was decided that the Article on the Declaration of Principles should not be the last and should be discussed prior to the Transitory Provisions. But it was not decided at what point before the Transitory Provisions this Article on the Declaration of Principles will be discussed.

So, the schedule was made. On August 18, 1986, the schedule was released, in which the Article on the Declaration of Principles, together with the Article on Family Rights, was to be discussed after the Article on Human Resources. Thereafter, the Article on General Provisions was scheduled and the last was the Transitory Provisions. This was released on August 18, 1986 and distributed to each Commissioner. And since then, the Order of Business had always stated that Committee Report No. 28 takes precedence over the committee report on the General Provisions without drawing any objections from anyone.

As I have already stated, we had a precedent in the past when two committee reports, one prior and one filed later, were considered together, and the prior date was the one that was chosen. That is the background, Madam President.

MR. GARCIA. Madam President, I beg to disagree. I think the records bear this out very clearly during our caucus on when we could finish the draft Constitution. It was made clear – and I think there are witnesses among us who can state very clearly – that we had decided to tackle the Article on the Declaration of Principles after the Article on General Provisions and the other articles that were then scheduled, for many reasons that were specified during that meeting.

I think if we look back at the record of that caucus, it was clear, and that is the reason I am asking since I do not recall of any other caucus that was held to reverse that original decision.

THE PRESIDENT. But may the Chair inquire if Commissioner Garcia received a copy of this memorandum from the chairman of the Steering Committee, dated August 18, 1986, which says that after the Article on Human Resources, what will be called will be the Article on the Declaration of Principles and State Policies?

MR. GARCIA. Yes, Madam President, and that is precisely my question. I was wondering where the authority came from, because it was the caucus' decision to have that precise scheduling. So how was it reversed without having passed through another discussion among the whole membership?

MR. BENGZON. Madam President, as I stated, in that caucus it was decided that the Article on the Declaration of Principles should not be considered after the Transitory Provisions, but before. But there was no statement or decision in the caucus as to how far before the Transitory Provisions should the Article on the Declaration of Principles be calendared. There was no decision and under the Rules, one of the functions and prerogatives of the Steering Committee is to prepare the schedule.

Apropos of that, Madam President, may I invite attention to the schedule made on July 30, 1986, released on the same date and where the Article on the Declaration of Principles was scheduled even ahead of the Articles on National Economy and on Human Resources. Thereafter, because of that desire to move back the schedule of the Article on the Declaration of Principles, there was the request to put it at the very end, which was changed precisely in that caucus when the body decided to move it out of the end and be placed before the Article on Transitory Provisions. But there was no decision as to when before the Transitory Provisions the Article on the Declaration of Principles should be calendared.

And so, on that basis, Madam President, the Steering Committee, with me as chairman, prepared a schedule dated August 18, 1986 which was distributed on the same day, and no objections were raised.

THE PRESIDENT. The Chair resolves to inquire from the Committee on Preamble, National Territory, and Declaration of Principles. If the committee is ready to proceed with its report, then we will start; if it is not ready, then we will postpone it to some other time.

MR. TINGSON. We are very ready, Madam President, and we are eager to start with our work.

THE PRESIDENT. So, we will consider for today the committee report on the Declaration of Principles.

MR. TINGSON. Thank you, Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537
(Article on the Declaration of Principles)

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. I move that we consider Committee Report No. 36 on Proposed Resolution No. 537 as reported out by the Committee on Preamble, National Territory, and Declaration of Principles.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Consideration of Proposed Resolution No. 537 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the Record the whole text thereof.

THE SECRETARY-GENERAL. Proposed Resolution No. 537, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE DECLARATION OF PRINCIPLES.

(The following is the whole text of the substitute resolution per C.R. No. 36.)

COMMITTEE REPORT NO. 36

The Committee on Preamble, National Territory, and Declaration of Principles to which were referred Proposed Resolution No. 3, introduced by Hon. Davide, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON DECLARATION OF PRINCIPLES AND STATE POLICIES,

Proposed Resolution No. 41, introduced by Hon. Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION ENSURING THAT THE RIGHT OF THE PEOPLE FREELY AND DIRECTLY TO PARTICIPATE AT ALL LEVELS OF DECISION-MAKING IS RESPECTED AND PROMOTED AND THAT THE FORMATION AND AUTONOMY OF GRASSROOTS ORGANIZATIONS AND AUTHENTIC POPULAR MOVEMENTS, WHETHER LOCAL, REGIONAL OR NATIONAL, ARE SECURED AND RECOGNIZED,

Proposed Resolution No. 42, introduced by Hon. Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING THE GOVERNMENT TO RESPECT THE RIGHTS OF ALL WORKERS AND EMPLOYEES, UNDER ANY AND ALL CIRCUMSTANCES, TO FREE ASSOCIATION AND COLLECTIVE BARGAINING AND TO ENGAGE IN CONCERTED ACTIVITIES FOR THEIR MUTUAL AID AND PROTECTION,

Proposed Resolution No. 64, introduced by Hon. Nolledo, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES OF THE NEW CONSTITUTION A PROVISION AGAINST POLITICAL DYNASTIES,

Proposed Resolution No. 70, introduced by Hon. Tingson, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION THE PROVISION ON THE SEPARATION OF CHURCH AND STATE,

Proposed Resolution No. 86, introduced by Hon. Bengzon, Jr., entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE ENTIRE ARTICLE II OF THE 1973 CONSTITUTION.

Proposed Resolution No. 87, introduced by Hon. Aquino, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS ON THE PROTECTION OF WOMEN'S RIGHTS,

Proposed Resolution No. 127, introduced by Hon. de los Reyes, Jr., entitled:

RESOLUTION TO INCLUDE IN THE GENERAL PROVISIONS ON DECLARATION OF PRINCIPLES A PROVISION TO PREVENT THOUGHTLESS EXTRAVAGANCE AND CONSPICUOUS CONSUMPTION, PROHIBIT AND DISCOURAGE ACTIVITIES WHICH PROMOTE INDOLENCE AND ARE NON-PRODUCTIVE,

Proposed Resolution No. 172, introduced by Hon. Rigos, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES PROVISIONS UPHOLDING THE TIME-HONORED PRINCIPLE OF THE SEPARATION OF CHURCH AND STATE,

Proposed Resolution No. 173, introduced by Hon. Rigos, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION A PROVISION PROVIDING FOR THE RIGHTS OF CHILDREN,

Proposed Resolution No. 179, introduced by Hon. Rosario Braid, entitled:

RESOLUTION TO INCLUDE IN THE DECLARATION OF PRINCIPLES THE STATE'S COMMITMENT TO PROMOTE AND PROTECT THE WELFARE, RIGHTS AND INTERESTS OF WOMEN AND THE YOUTH,

Proposed Resolution No. 185, introduced by Hon. Nolledo, entitled:

RESOLUTION TO INCLUDE IN THE DECLARATION OF PRINCIPLES THE FOLLOWING: "IN THE GRANT OF RIGHTS, PRIVILEGES OR CONCESSIONS, THE STATE SHALL ADOPT THE FILIPINO-FIRST POLICY,"

Proposed Resolution No. 186, introduced by Hon. Nolledo, entitled:

RESOLUTION TO INCLUDE IN THE DECLARATION OF PRINCIPLES A PROVISION THAT THE STATE RECOGNIZES THE DIGNITY OF THE HUMAN PERSONALITY AND GUARANTEES FULL RESPECT FOR HUMAN RIGHTS,

Proposed Resolution No. 187, introduced by Hon. Nolledo, entitled:

RESOLUTION TO PROVIDE IN THE DECLARATION OF PRINCIPLES THAT THE STATE SHALL ESTABLISH, MAINTAIN AND ENSURE ADEQUATE SOCIAL SERVICES IN THE FIELDS OF EDUCATION, HEALTH, HOUSING, UNEMPLOYMENT, WELFARE, AND SOCIAL SECURITY IN ORDER TO ATTAIN A DECENT STANDARD OF LIVING FOR OUR PEOPLE,

Proposed Resolution No. 190, introduced by Hon. Nolledo, entitled:

RESOLUTION TO INCLUDE A PROVISION IN THE DECLARATION OF PRINCIPLES THAT THE PHILIPPINES IS A REPUBLICAN AND DEMOCRATIC STATE AND THAT SOVEREIGNTY RESIDES IN THE FILIPINO PEOPLE AND ALL GOVERNMENT AUTHORITY EMANATES FROM THEM,

Proposed Resolution No. 192, introduced by Hon. Nolledo, entitled:

RESOLUTION TO INCLUDE IN THE DECLARATION OF PRINCIPLES THIS PROVISION: "THE STATE RECOGNIZES THE VITAL ROLE OF THE YOUTH IN NATION-BUILDING AND SHALL FULLY PROMOTE THEIR PHYSICAL, INTELLECTUAL AND SOCIAL WELL-BEING. FOR THIS PURPOSE, THE STATE SHALL INCULCATE IN THE YOUTH DESIRABLE VALUES AND VIRTUES, NATIONALISM, PATRIOTISM, SPIRIT OF SPORTSMANSHIP AND INVOLVEMENT IN THE AFFAIRS OF THE NATION,

Proposed Resolution No. 196, introduced by Hon. Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION FOR THE PROTECTION OF CHILDREN AGAINST ALL FORMS OF NEGLECT, CRUELTY AND EXPLOITATION,

Proposed Resolution No. 201, introduced by Hon. Bengzon, Jr., entitled:

RESOLUTION INCORPORATING UNDER THE NEW CONSTITUTION PROVISIONS STRENGTHENING CIVILIAN SUPREMACY OVER THE MILITARY,

Proposed Resolution No. 205, introduced by Hon. Rigos, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES A PROVISION RECOGNIZING THE RIGHT TO A HEALTHY ENVIRONMENT AND PROVIDING FOR THE PRESERVATION AND PROTECTION OF THE COUNTRY'S NATURAL RESOURCES,

Proposed Resolution No. 217, introduced by Hon. de los Reyes, Jr., entitled:

RESOLUTION PROVIDING FOR A CATEGORICAL COMMITMENT TO SECURE A BETTER MORAL ENVIRONMENT FOR OUR COUNTRY,

Proposed Resolution No. 221, introduced by Hon. Quesada, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION DECLARING THAT ENVIRONMENTAL PROTECTION AND PRESERVATION SHALL BE THE RESPONSIBILITY OF THE STATE AND THE CITIZENS OF THE COUNTRY,

Proposed Resolution No. 231, introduced by Hon. de Castro, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION STATE POLICIES TO PREVENT THE SAD EXPERIENCES OF THE FILIPINO PEOPLE DURING THE TWENTY YEARS RULE OF THE DEPOSED REGIME,

Proposed Resolution No. 248, introduced by Hon. Rosario Braid, entitled:

RESOLUTION PROVIDING THAT THE STATE SHALL ADOPT AND IMPLEMENT AN INTEGRATED AND COORDINATED APPROACH TO DEVELOPMENTAL PLANNING COMPATIBLE WITH THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT,

Proposed Resolution No. 249, introduced by Hon. Sarmiento, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION THAT THE STATE SHALL PROVIDE SPECIAL PROTECTION AND CARE TO MOTHERS DURING PREGNANCY AND MATERNITY,

Proposed Resolution No. 269, introduced by Hon. Tingson, entitled:

RESOLUTION PROPOSING TO INCLUDE IN THE DECLARATION OF PRINCIPLES OF THE CONSTITUTION A PROVISION ON MORAL COMMITMENT,

Proposed Resolution No. 272, introduced by Hon. Nieva, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF THE FAMILY,

Proposed Resolution No. 295, introduced by Hon. Villacorta, entitled:

RESOLUTION STRESSING THAT THE CONCEPT OF THE STATE INCLUDES THE PEOPLE AS THE SUPREME ELEMENT, Proposed Resolution No. 302, introduced by Hon. Rama, entitled:

> RESOLUTION TO DELETE THE PROVISION UNDER DECLARATION OF PRINCIPLES IN BOTH THE 1935 AND 1973 CONSTITUTIONS POSTULATING THAT THE "DEFENSE OF THE STATE IS THE PRIME DUTY OF THE GOVERNMENT AND PEOPLE" AND TO THIS END TO COMPEL EVERY CITIZEN TO RENDER MILITARY SERVICE – A DANGEROUS ANACHRONISM THAT SHOULD YIELD TO THE SOUNDER AND MORE RELEVANT PRIORITY THAT THE GOVERNMENT'S PRIMARY DUTY IS TO LIFT THE LIVING LEVEL OF OUR IMPOVERISHED PEOPLE AND TO DEFEND THEIR BASIC FREEDOMS,

Proposed Resolution No. 328, introduced by Hon. Aquino, entitled:

> RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION PROVISIONS ENSURING THE MUTUAL AUTONOMY OF CHURCH AND STATE,

Proposed Resolution No. 331, introduced by Hon. Aquino, entitled:

> RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES PROVISIONS ON THE RECOGNITION AND PROTECTION OF WORKERS' RIGHT,

Proposed Resolution No. 345, introduced by Hon. Colayco, entitled:

> RESOLUTION TO INCORPORATE INTO THE CONSTITUTION A PROVISION ON THE COOPERATION BETWEEN CHURCH AND STATE,

Proposed Resolution No. 372, introduced by Hon. Calderon, entitled:

> RESOLUTION STATING THE DECLARATION OF PRINCIPLES WHICH SHALL GUIDE THE GOVERNMENT OF THE PHILIPPINES IN ITS RELATION WITH ITSELF, ITS CITIZENS, AND OTHER NATIONS,

Proposed Resolution No. 381, introduced by Hon. Davide, Jr., entitled:

> A RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION MANDATING THE ELIMINATION OF ALL FORMS OF FOREIGN CONTROL OR DOMINATION IN THE POLITICAL, ECONOMIC, SOCIAL AND CULTURAL LIFE OF THE NATION,

Proposed Resolution No. 383, introduced by Hon. Davide, Jr., entitled:

> A RESOLUTION RECOGNIZING THE RIGHT OF A CITIZEN TO REFUSE TO RENDER WAR SERVICE ON GROUNDS OF CONSCIENCE,

Proposed Resolution No. 390, introduced by Hon. Nolledo, entitled:

> RESOLUTION TO PROVIDE IN THE NEW CONSTITUTION THAT THE CHURCH AND THE STATE ARE INDEPENDENT OF EACH OTHER BUT MUST WORK TOGETHER HARMONIOUSLY FOR THE COMMON GOOD,

Proposed Resolution No. 393, introduced by Hon. Sarmiento, entitled:

> RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION REQUIRING THE STATE TO PROMOTE POLITICAL PLURALISM AND PROHIBIT ALL FORMS OF DISCRIMINATION AND REPRESSION BY REASON OF POLITICAL CONVICTIONS,

Proposed Resolution No. 395, introduced by Hon. Aquino, entitled:

> RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES PROVISIONS ON THE SEPARATION OF CHURCH AND STATE,

Proposed Resolution No. 406, introduced by Hon. Rosario Braid, entitled:

> RESOLUTION PROVIDING FOR A SECTION ON EDUCATION IN THE ARTICLE ON THE DECLARATION OF PRINCIPLES,

Proposed Resolution No. 407, introduced by Hon. Rosario Braid, entitled:

> RESOLUTION TO INCLUDE IN THE ARTICLE ON DECLARATION OF PRINCIPLES AND STATE POLICIES A PROVISION CONSTITUTING COMMUNICATION RESOURCES AS A VITAL NATIONAL RESOURCE,

Proposed Resolution No. 424, introduced by Hon. Suarez, entitled:

> RESOLUTION PROVIDING FOR CONSUMER PROTECTION IN THE NEW CONSTITUTION,

Proposed Resolution No. 430, introduced by Hon. Ople, entitled:

> RESOLUTION TERMINATING THE MILITARY BASES AGREEMENT BY 1991,

Proposed Resolution No. 434, introduced by Hon. Rigos, entitled:

> RESOLUTION TO INCORPORATE IN THE ARTICLE ON SOCIAL JUSTICE PROVISION PROVIDING BASIC CONSUMER RIGHTS TO ALL CITIZENS,

Proposed Resolution No. 437, introduced by Hon. Tingson, entitled:

> A RESOLUTION PROPOSING FOR THE INCLUSION OF A PROVISION ON THE DECLARATION OF PRINCIPLES AND STATE POLICIES IN THE NEW CONSTITUTION,

Proposed Resolution No. 452, introduced by Hon. Gascon, entitled:

RESOLUTION FOR THE ENCOURAGEMENT AND PROMOTION OF PEOPLE'S ORGANIZATIONS,

Proposed Resolution No. 479, introduced by Hon. Rosario Braid, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES THE RECOGNITION OF RURAL DEVELOPMENT AND AGRARIAN REFORM AS PRIORITIES OF THE STATE,

Proposed Resolution No. 481, introduced by Hon. Gascon, entitled:

RESOLUTION TO INCORPORATE IN THE CONSTITUTION A PROVISION RECOGNIZING THE ROLE OF THE YOUTH IN NATION-BUILDING AND GUARANTEEING THEIR REPRESENTATION IN POLICY-MAKING BODIES OF THE GOVERNMENT,

Proposed Resolution No. 489, introduced by Hon. Bacani, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A PROVISION PROTECTING THE INDISSOLUBILITY OF MARRIAGE AND THE STABILITY OF THE FILIPINO FAMILY,

Proposed Resolution No. 498, introduced by Hon. Villegas, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION SECTION ONE OF THE DECLARATION OF PRINCIPLES OF THE 1973 CONSTITUTION WITH AN AMENDMENT TO QUALIFY THE ORIGIN OF THE SOVEREIGNTY OF THE PEOPLE,

Proposed Resolution No. 499, introduced by Hon. Villegas, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE 1986 CONSTITUTION A STATEMENT OF THE NATIONAL PURPOSE,

Proposed Resolution No. 500, introduced by Hon. Villegas, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION A SECTION ON THE FILIPINO COMMITMENT TO PEACE, BENEVOLENCE, AND RECONCILIATION,

Proposed Resolution No. 501, introduced by Hon. Villegas, entitled:

RESOLUTION TO INCORPORATE IN THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION A SECTION PROVIDING FOR THE DEFENSE OF THE NATION,

Proposed Resolution No. 505, introduced by Hon. Villegas, entitled:

RESOLUTION TO ADOPT AS AMENDED TO FURTHER EMPHASIZE THE RIGHTS OF THE FAMILY ARTICLE 2, SECTION 4 OF THE 1973 CONSTITUTION FOR INCORPORATION INTO THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION,

Proposed Resolution No. 506, introduced by Hon. Villegas, entitled:

RESOLUTION TO ADOPT AS AMENDED ARTICLE 2, SECTION 5 OF THE 1973 CONSTITUTION FOR INCORPORATION INTO THE DECLARATION OF PRINCIPLES AND STATE POLICIES OF THE NEW CONSTITUTION EMPHASIZING THE ROLE AND RIGHTS OF THE YOUTH,

has considered the same and has the honor to report them back to the Constitutional Commission of 1986 with the recommendation that attached Proposed Resolution No. 537 prepared by the Committee, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE DECLARATION OF PRINCIPLES,

be approved in substitution of Proposed Resolution Nos. 3, 41, 42, 64, 70, 86, 87, 127, 172, 173, 179, 185, 186, 187, 190, 192, 196, 201, 205, 217, 221, 231, 248, 249, 269, 272, 295, 302, 328, 331, 345, 372, 381, 383, 390, 393, 395, 406, 407, 424, 430, 434, 437, 452, 479, 481, 489, 498, 499, 500, 501, 505 and 506 with Honorable Davide, Jr., Nolledo, Sarmiento, Tingson, Bengzon, Jr., Aquino, de los Reyes, Jr., Rigos, Rosario Braid, Quesada, De Castro, Nieva, Villacorta, Rama, Bacani, Colayco, Calderon, Suarez, Ople, Gascon, Villegas, Rosales, Azcuna, Foz and Garcia as authors.

(Sgd.) Decoroso R. Rosales
Chairman
Committee on Preamble, National Territory,
and Declaration of Principles

(Sgd.) Gregorio J. Tingson
Vice-Chairman

(Sgd.) Adolfo S. Azcuna
Member

(Sgd.) Crispino M. de Castro
Member
(with reservations)

(Sgd.) Edmundo G. Garcia
Member

(Sgd.) Minda Luz M. Quesada
Member

(Sgd.) Felicitas S. Aquino
Member

(Sgd.) Florangel Rosario Braid
Member

(Sgd.) Vicente B. Foz
Member

(Sgd.) Jose N. Nolledo
Member

(Sgd.) Bernardo M. Villegas
Member
(with reservations)

PROPOSED RESOLUTION NO. 537

(Substitute resolution)

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION AN ARTICLE ON THE DECLARATION OF PRINCIPLES.

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled, To incorporate in the new Constitution the following provision:

ARTICLE II

Declaration of Principles and State Policies

Section 1. The Philippines is a republican and democratic State. Sovereignty resides in the Filipino people and all government authority emanates from them and continues only with their consent.

Section 2. The Filipino people commit themselves to peace, equality and freedom. They renounce war as an instrument of national policy and adopt the generally accepted principles of international law as part of the laws of the land.

Section 3. The State shall pursue an independent course in sovereign relations and strive to promote and establish, together with other States agreeable thereto, a zone of peace, freedom and neutrality in this part of the world.

The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

Section 4. The Philippines is a nuclear-free country. No portion of its territory shall be used for the purpose of storing or stockpiling of nuclear weapons, devices or parts thereof.

Section 5. The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the social, economic and political condition.

Section 6. The prime duty of the government is to serve and protect the people. The people and the government shall defend the State and in the fulfillment of this duty all citizens may be required by law, with due regard to objections of conscience, to render personal military or civil service.

Section 7. The prime concern of the State is the promotion and establishment of a socio-political and economic system that will ensure the independence of the nation and aims to secure for the people the benefits of full employment, a high standard of living, equality in economic opportunities, security in old age, and other basic human rights.

Section 8. The State shall intensify efforts to promote social justice in the pursuit of national development objectives. To this end, Congress shall give highest priority to the enactment of measures designed to reduce economic and political inequalities, including measures to regulate the acquisition, ownership, use and disposition of property, as well as to encourage self-reliant socio-political and economic structures.

Section 9. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. The State shall equally protect the life of the mother and the life of the unborn from the moment of conception. The natural right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the government.

Section 10. The State recognizes the vital role of the youth in nation-building and shall promote their physical, moral, spiritual, intellectual, and social well-being.

For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

The State shall protect children from all forms of neglect, cruelty and exploitation, particularly in conditions harmful to their physical, mental or moral well-being.

Section 11. The State recognizes the role and participation of women in nation-building and shall ensure the right of women to equal protection with men in all spheres of economic, political, civil, social and cultural life, including family life.

Section 12. The State affirms the primacy of labor as a social and economic force and shall foster their welfare and protect their rights, subject to the corresponding claims of capital to reasonable growth and returns.

Section 13. The State shall establish, maintain, and secure adequate social services in the fields of education, health, housing, employment, welfare, and social security to guarantee the enjoyment by the people of a decent level of living and a life worthy of human dignity.

Section 14. The State shall promote rural development and agrarian reform as priorities, with cooperativism as its organizing principle.

Section 15. The State shall recognize and respect the right of indigenous cultural communities to choose their own path of development according to their political, economic, and cultural characteristics within the framework of national unity. The State shall eradicate all forms of discrimination against indigenous cultural communities and shall promote mutual respect and understanding between them and the rest of the Filipino people.

Section 16. The State shall encourage non-government and community-based organizations engaged in activities that promote the welfare of the nation.

Section 17. The State recognizes the role of health in the economic and social development of the country and, towards this end, shall protect the health of the people.

Section 18. The State recognizes the human right to a healthy environment and the singular demand of nature to follow its own rhythm and harmony. The State shall therefore maintain ecological balance even as it harnesses our natural resources for the common good and the sustenance of future generations.

Section 19. The State recognizes the role of science and technology in national development and in harnessing the full potential of the natural and human resources of the country. Towards this end, it shall promote the development of an indigenous socially responsive and nationalist-oriented scientific and technological capability.

Section 20. The State recognizes education and culture as priority concerns for the promotion of nationalism, cultural integration and the development of its citizens and the country.

Section 21. The State shall protect the right of the people to communicate and shall promote access to information to enhance social and political participation. The media and other forms of communication have a social responsibility in assisting the people to enjoy their rights and freedoms.

Section 22. The State shall guarantee and promote the autonomy of local government units and autonomous regions to ensure their fullest development as self-reliant communities.

Section 23. The State shall broaden opportunities to public office and prohibit political dynasties.

Section 24. The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country, and they shall not be extradited.

Section 25. The civilian authority is at all times supreme over the military.

Section 26. When a long chain of government abuses and usurpations, pursuing invariably the same object contrary to the expressed will of the people, evinces a design to reduce them under absolute despotism, it is the right of the people, it is their duty, to change such government, and to provide new guards for their future security.

Section 27. The separation of the Church and State shall be inviolable.

PORTION FOR INCLUSION IN TRANSITORY PROVISION

Upon the expiration of the RP-US bases agreement in 1991, foreign military bases, troops and facilities, shall no longer be allowed in any part of the Philippine territory.

MR. RAMA. May I ask that the committee chairman and the committee members take their seats so we can start the period of sponsorship.

THE PRESIDENT. May we request the honorable chairman and members of the Committee on Preamble, National Territory, and Declaration of Principles to please occupy the front table.

MR. TINGSON. Madam President, we would like our official chairman, Commissioner Decoroso R. Rosales, be helped brought here to be with us.

MR. RAMA. Madam President, I ask that Commissioner Tingson be first recognized as vice-chairman.

THE PRESIDENT. Commissioner Tingson is recognized.

SPONSORSHIP SPEECH
OF COMMISSIONER TINGSON

MR. TINGSON. Madam President, in deference to our official chairman, Commissioner Rosales, we did ask him to say a few words this morning but he said he would rather listen. We are grateful to Commissioner Rosales for helping us in the formulation of our committee report, in spite of the fact that most often he was absent from our deliberations because he is under the doctor's care. We hope and we pray that before long his health will be restored.

Madam President, in behalf of the committee, I wish to humbly underscore the salient features, especially the new ones, of the proposed Article on the Declaration of Principles and State Policies. The body will note that the committee's proposal consists of 27 sections.

In the 1973 Constitution, there were only 10 provisions; in the 1935 Constitution, there were only five. Is the Article on Declaration of Principles that important that it now merits many more sections? Yes, it is; our committee thinks so. In fact, the Committee on Sponsorship is formally recommending through the Subcommittee on Rubrics that the Declaration of Principles and State Policies should immediately follow the Preamble. But why? Because this particular article makes positive affirmations, asserts national intentions and unashamedly proclaims for all the world to hear what kind of a country we are grateful to God for; what nature of a government we intend for our citizenry to support; what dimensions of power, privileges and responsibilities tax-paying citizens must be aware of, if only to remind our people that for every privilege we enjoy there perforce must be an equal and corresponding responsibility. Necessarily, therefore, declarations in this article find themselves elucidated on, explained further and made more lucid and compellingly clear in succeeding articles of our emerging fundamental law. Support for our committee's stand on this point would come from two of our legal minds in this body who have written books on constitutionalism which are widely read and authoritatively quoted: Commissioners Jose Nolledo and Joaquin Bernas. In substance they maintain that the function of the Declaration of Principles and State Policies in our Constitution is a statement of the basic ideological principles that underlie the Constitution. As such, the provisions shed light on the meaning of the other provisions of the Constitution and they are a guide for all departments of the government in the implementation of the Constitution.

The inclusion, Madam President, of 17 new sections is a manifestation that in the rebirth of our nation, the Charter that accompanies it must truly be reflective of the ideals and aspirations of the Filipino people that are not only genuine but inherent in them. Aside from presenting our basic ideological principles, the same article must equally reflect all-embracing sentiments of the people in their renewed desire to achieve a society that is founded on justice, freedom, equality, love and peace.

On the concept of the State and its relation with other States, we have retained Section 1, restating our adherence to republicanism and have reinforced the same with a stronger word, "democratic," to make it consistent with what the proposed Preamble provides—that the people shall secure for them and their future the "blessings of democracy." That all government authority emanates from the people is also retained as a basic principle of republicanism. The renunciation of war is retained in Section 2; along with it is a confirmation of our adherence to international harmony and order. This is reinforced by two new sections, one on neutrality and the other declaring our country a nuclear-free territory. Another new section is Section 24, granting asylum to persecuted foreigners who are human rights and political liberation advocates.

On the responsibilities of the State to the people, both individually and collectively, we have included policies and principles on the dignity of the human person (Section 5); the duty of the government to serve and protect the people (Section 6); recognition of the sanctity of family life, the family being the basic social institution (Section 9); the vital role of the youth in nation-building (Sections 9 and 10); and the equally significant role of women (Section 11).

Section 5 affirms our deep regard for the preservation of the dignity of every individual. As such, the State should guarantee full respect for human rights and should try its best to uplift the conditions of the people. For the State to be successful in ensuring individual welfare, it should be able to effectively provide man his basic and political needs. Aside from these socio-economic and political structures,the State shall likewise ensure that every Filipino family is protected and strengthened. Here, the concept of responsible parenthood is best magnified to include the responsibility of the parents to their children. With a stronger family relationship, the Filipino society as a whole will likewise be sturdy and stable.

Section 10 on the youth is one aspect of the article that shall enshrine our highest regard for the welfare of our youth in their role as future leaders of this country. The words of Dr. Jose Rizal amplify this when he said that "The youth is the hope of the fatherland." How true his statement is. Even as we write this Constitution, we must be guided by a vision that the fundamental law we make today is more important to the generation as this will shape the destiny of the youth today, who will inevitably guide the country's path in the not-so-distant future.

On the total development of man, Section 7 clearly establishes the primary concern of the State which is the promotion and establishment of a wholesome socio-political and economic system in our society. This concept is buttressed by Section 8 on social justice; Section 12 on the protection of labor; Section 13 on the establishment of adequate social services; Section 14 on rural development and agrarian reform; Section 15 on the rights of the indigenous cultural communities; Section 16 on welfare-oriented community organizations; Section 17 on health; Section 18 on ecological balance; Section 19 on the promotion of an indigenous socially responsible and nationalist-oriented scientific and technological capability; Section 12 on education and culture; Section 21 on public information and participation; Section 22 on local autonomy and self-reliance; Section 23 on public office; and Section 26 on the inherent right of the people to secure to themselves a democratic form of government. Two other provisions which are equally significant guiding principles of the State, especially so with the recent political developments that have drastically transformed our society, are long-established principles which are: the supremacy of civilian authority over the military (Section 25) and the separation of Church and State.

By and large, the democracies of the free world, Madam President, have kept close to the time-honored principle of the separation of Church and State. Nonetheless, we find it essential to reiterate this principle in the basic law, moving it from General Provisions in the 1973 Charter to the Declaration of Principles as also suggested in the UP draft because its absence could very well invite dire possibilities in the future. Commissioner Rosario Braid, chairman of the Committee on General Provisions, reports on this subject alone. She acknowledged receipt of over 500 letters urging our Commission not to forget to articulate in our Constitution the separation of Church and State.

Someone once said that man is precariously civilized. We are all witnesses to the kinship of Abel and Cain in each individual. And we might sometimes wonder how thin the ice of civilized life is. As late as 1960, the late President of the United States and the first Roman Catholic elected to the presidency of that country once again had to remind Americans that the principle of the separation of the Church and State exists and remains inviolable. Religion is a pervasive and overwhelming fact of our national existence. While we do not entertain the notion of ever regulating the observance of religion, let us make sure that religion, encompassing as it does large segments of our society, does not unduly influence the formulation and implementation of state policies. But how might these two distinguishable but permanent institutions live alongside each other? Shall one regulate the other? Shall the other subserve the former? Obviously, our own great minds of the past have found a solution to this, which is the reason why the separation of Church and State has long been established and enjoys its respective place in our constitutional heritage and legal jurisprudence. The formula was and always has been to put a space between Church and government, a space in respect for distance between the two. For religion, whatever it might be, to flourish in our society, it has observed this principle because the space provided for itself in the sphere of spiritual influence is wide and broad enough that it need not aspire to control the political sphere, as well as in order to fulfill itself.

Our overriding concern as a committee, therefore, can only be this: The Church or the State can destroy itself by interfering with the business of the other. The passage "Render unto Caesar the things that are Caesar's, and unto God the things that are God's" is not an idle passage in the Holy Book. It is an established principle, and violating it can only mean disaster, either for the Church or the State. To be sure, we need a government to referee our conflicting aspirations, to guide us and to give us direction. We need religion also for many reasons, but above all, to carry us above the mundane realities when the government cannot.

Madam President, as I close, the Committee on Preamble, National Territory, and Declaration of Principles is painfully aware of the fact that our report contains in Sections 3 and 4, or perhaps Sections 2 and 9, and the portion appended for inclusion in the Transitory Provisions some explosive and divisive issues. Discussions or debates on these critical issues of the day could, if not guided and controlled by reason, tolerance and compassion, tear us apart and destroy whatever friendships and fellowships we have been painstakingly building during the past three-and-a-half months. And our country will inevitably suffer as a consequence. The Book of Proverbs has a good word for us during the next few days:

> The wise man is known by his common sense,
> and a pleasant teacher is the best.
>
> Wisdom is a foundation of life to those possessing it,
> but a fool's burden is his folly.
>
> From a wise mind comes careful and persuasive speech.

Let us remember that we can intellectually disagree without being disagreeable. We have enshrined the word "love" in our Preamble; years from now we will be more grateful than we are today that our Commission had the vision, the wisdom, nay, the divisive life, I would dare say, in our decision to enrich our Charter with such a collective prayer using the word "love." Let us observe it during the next few days.

For love is giving with no thought of getting. It is tenderness enfolding with strength to protect. It is forgiveness without further thought of the thing forgiven. It is understanding of the thing forgiven. It is understanding of human weakness with knowledge of the true man shining through. It is quiet in the midst of turmoil. It is trust in God with no thought of self. It is the refusal to see anything but good in our fellowmen. It is the voice that says "no" to our brother though "yes" might be more conveniently and easily said. It is resistance to the world's lust and greed and fame and popularity, thus becoming a positive law of annihilation to error. Love, the one thing no one can take from us; the one thing we can give constantly and become increasingly rich in the giving. Love can take no offense for it cannot know that which it does not of itself conceive. It cannot hurt or be hurt for it is the purest reflection of God. It is the one eternal indestructible force for good. Love, it is the will of God, preparing, planning, proposing, always what is best for all His universe.

Maraming salamat po. Thank you very much, Madam President.

THE PRESIDENT. The Floor Leader is recognized.

SUSPENSION OF SESSION

MR. RAMA. There is a request here, Madam President, that we suspend the session because one of the sponsorship speakers has to go to the hospital to attend to his ailing father. So, I move, Madam President, that we suspend the session until after lunch.

THE PRESIDENT. The session is suspended until two-thirty this afternoon.

It was 12:22 p.m.

RESUMPTION OF SESSION

At 2:45 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

The honorable chairman and members of the Committee on the Declaration of Principles will please occupy the front seats.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Nolledo be recognized.

THE PRESIDENT. Commissioner Nolledo is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER NOLLEDO

MR. NOLLEDO. Thank you, Madam President.

Madam President and my dear colleagues in the Constitutional Commission, as a member of the family of nations, our country and people pretend to have independence. We thought that with the declaration of independence on July 4, 1946, our leaders could really chart the destiny of our nation freed from foreign interference. To my mind, our independence has been illusory and has remained an unfulfilled dream.

Since 1946, Madam President, we have been too dependent on the United States whose military bases in our country have spawned irritations in many aspects and have generated bitterness among and protest from right-thinking Filipinos who aspire for real national independence. Our country has become a virtual satellite of the United States whose yearly aid is too little in exchange for our almost total subservience to U.S. policies and interests. With the adoption of neutrality and neutralism in the form of nonalignment by the Philippines, we shall be emancipating ourselves from the parental authority of Mother America.

Madam President, our committee recommends the adoption by our country of neutrality and neutralism. In its legal sense, neutrality is the legal status arising from the abstention of a state from all participation in war between other states, the maintenance of an attitude of impartiality toward the belligerents and the recognition by the belligerents of this abstention and impartiality. Neutralism, Madam President, on the other hand, is neutrality basically in time of peace. In international politics, neutralism is the policy of nonalignment with major power blocs pursued in the post-World War II period by countries like India, Burma, Kenya and Yugoslavia. It is not being isolationist because these nations, Madam President, seek cooperation in economic, social and nonpolitical affairs with other nations of the world. Neutralism also followed from the policy of avoidance of entangling alliances advocated for the United States by Presidents Washington and Jefferson and pursued during the European wars between France and Great Britain. It is a policy necessary to preserve the nation's independence and to serve the national interests. Neutralism, however, Madam President, enables countries to get much-needed economic assistance from both power blocs, the United States and Russia. It avoids a form of dependence on one power bloc.

The declaration of neutrality and nonalignment directed against all power blocs necessarily results in the prohibition of foreign bases in our country.

Much has been said about the American bases in our country, Madam President. However, I would like to state that the existence of American bases in our country is an infringement on our sovereignty, as well as jurisdiction. It has made our country and our leaders subservient to American policies and interests. It contradicts the rule of self-determination guaranteed by the United Nations Charter because, in effect, it constitutes intervention in our domestic affairs. It violates the rule of disarmament sought for by the United Nations. It diminishes our national dignity and honor. It promotes immoralities of all sorts and constitutes an affront to the intelligence of the Filipinos because of the one-sided provisions of the RP-US Bases Agreement as it was foisted upon and squeezed from us at a time when our leaders, faced with the urgent need to rehabilitate our country in view of widespread devastation wrought by World War II, had no choice but to succumb to the onerous terms of the agreement.

The existence of the American bases, Madam President, is a continuing threat to and constitutes an undue influence upon the leaders of our country. It has been a truism that a Filipino political leader, to enjoy support whether openly or clandestinely by the United States of America, must agree with the maintenance of American bases in our country.

Only a leader willing to be an American tool in this respect will get aid from the U.S. including the U.S.-dominated World Bank, as well as the International Monetary Fund. It is a well-known fact that the United States supported the repressive and most corrupt regime of Ferdinand Marcos. It is said that President Nixon cooperated and facilitated the declaration of martial law in our country. President Ford continued to support the pro-Marcos policy. President Carter tolerated the Marcos dictatorship and Henry Kissinger openly supported the deposed dictator. President Reagan affectionately, intimately and closely supported the Marcos administration. All these were possible because Mr. Marcos, a close American ally and who allegedly fought side by side with the Americans in fighting the Japanese enemies during World War II, was an ardent supporter of the American bases. The cosmetic moves of Mr. Marcos to have Filipino commanders in American bases and to require these bases to fly the Filipino flag do not, in any way, lessen the validity of the arguments against the American bases.

The Marcos regime has wrought great havoc to our country. It has intensified insurgency and is guilty of rampant violations of human rights and injustices that it has committed. It has brought about economic turmoil. It has institutionalized widespread graft and corruption in all levels of government and it has bled the National Treasury, resulting in great financial hemorrhage of our country. Therefore, the United States, because of the American bases, has become *particeps criminis* in the grand design of Mr. Marcos to devastate our country. Because of this American participation in this devilish design, I ask President Corazon Aquino to claim from the United States reparations, similar to the war damages payment from the United States and Japan after World War II, to the tune of at least $5 billion or more, if we are to believe, as we have no reason not to believe Senator Jovito R. Salonga, that this was the amount stolen by Mr. Marcos and his cronies from the Filipino people.

I subscribe to the view, Madam President, of Senator Jose W. Diokno that the RP-US Bases Agreement is null and void for being violative of the 1935 Constitution, which included the Tydings-McDuffie Act as an ordinance thereof and which was ratified by our people in a plebiscite. The Tydings-McDuffie Act called upon the U.S. President to enter into negotiations with foreign powers for conclusion of a treaty leading to the perpetual neutralization of the Republic of the Philippines. But the US-Japanese war, Madam President, prevented the implementation of this provision when President Franklin Delano Roosevelt signed on June 29, 1944 US Congress Joint Resolution No. 93 which authorized the President of the United States to negotiate with the President of the Philippine Commonwealth for the retention or acquisition of bases in the Philippines for the mutual protection of the two countries. This was approved by the Philippine Congress on July 28, 1945 but was never submitted to a plebiscite. Therefore, Resolution No. 93 could not have superseded the Tydings-McDuffie Act. The RP-US Bases Agreement, Madam President, with its disadvantageous terms was entered into when the Filipinos could not muster the national will to oppose the same. The claim of Ambassador Emmanuel Pelaez that the Philippines is now estopped to raise the invalidity of said agreement does not hold water because of a basic and settled rule, applicable not only in civil and commercial law but also in political law, that the State is not estopped by the illegal acts of its officers. Prescription — it is a settled rule — does not lie against the State.

Madam President, in our consultations, a great number of people, especially the students in different parts of the country who will inherit the country from us, are against the existence of American bases in the Philippines. Their highly justified plea should not fall unto deaf ears, lest the future generation will judge us harshly.

Lastly, Madam President, borrowing the words of Mayor Arsenio H. Lacson, and I quote:

> I am not anti-American; I am not anti-alien; I am just pro-Filipino. God bless and save the Philippines.

Thank you, Madam President. *(Applause)*

MR. RAMA. Madam President, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT. Commissioner Rodrigo is recognized.

The Chair requests our guests in the gallery to please refrain from making any outward manifestation of either approval or disapproval of any speech being made here in the session hall.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

TURNO EN CONTRA
OF COMMISSIONER RODRIGO

MR. RODRIGO. Madam President, the issue on the American bases in the Philippines is of utmost interest to our people so permit me to discuss this issue.

Madam President, the way to start a discussion is to pinpoint the subject and define the issues. What is the subject of our discussion? What are the issues? What are the points of disagreement and of agreement?

The principal subject of our discussion involves the following provisions found in Committee Report No. 36 of the Committee on Preamble, National Territory, and Declaration of Principles, and I quote:

> Section 3. The State shall pursue an independent course in sovereign relations and strive to promote and establish, together with other States agreeable thereto, a zone of peace, freedom and neutrality in this part of the world.
>
> The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

The other section, denominated "PORTION FOR INCLUSION IN TRANSITORY PROVISION," reads, and I quote:

> Upon the expiration of the RP-US Bases Agreement in 1991, foreign military bases, troops and facilities shall no longer be allowed in any part of the Philippine territory.

These are the provisions at issue, Madam President. Let me define my stand.

My stand is that these provisions should not be incorporated in the Constitution we are drafting. This is my principal, if not my sole, disagreement with those who propose these provisions. I stand on the proposition that the decision on whether to continue or discontinue the existence of foreign military bases in the Philippines is best left to the government. We should not tie the hands of the government, particularly the executive, by means of inflexible constitutional mandates.

Let me add: This would also be my stand even if the proposed provisions were for continuance or extension, instead of termination, of U.S. military bases in our country. I would likewise oppose such proposal.

Madam President, I repeat that this matter should be entrusted to the government to decide on on the basis of changing events, changing needs and changing circumstances of the times.

Before presenting my arguments, Madam President, in support of this stand, let me first lay down the points on which I agree with the committee report.

First, I agree with the report that our action on foreign military bases, troops or facilities in the Philippines shall be subject to existing treaties, international or executive agreements.

Second, I agree with the clear averment in the report that the Philippines should honor and respect the RP-US Bases Agreement until its expiry date in 1991. There is, therefore, no disagreement in allowing U.S. military bases to remain in the Philippines until 1991. Even the committee advocates that. This is not a disputed issue.

But should the bases be allowed to remain beyond 1991? That is the issue.

What is my stand on this? I do not say "Yes"; I do not say "No." What I say is: Let our government decide on this at the proper time. And let us not manacle its hand by means of a constitutional fiat.

In this connection, permit me to underscore the proviso in the committee report itself to the effect that our action on this matter, and I quote: "shall be subject to existing treaties, existing international or executive agreements."

I call attention to a provision of the RP-US Bases Agreement, as amended by the Marcos-Mondale Joint

Statement on May 4, 1978 and implemented by the Romulo-Murphy Exchange of Notes on January 7, 1979, which stipulates a periodic review and reassessment of the agreement every fifth year. Said provision reads, and I quote:

> In every fifth anniversary year from the date of the amendments and until the termination of the agreement, there shall be begun and completed a complete and thorough review and reassessment of the agreement, including its objectives, its provisions and its duration, and the manner of implementation to assure that the agreement continue to serve the mutual interests of both parties.

The first renegotiation, Madam President, under said provision was done in 1973. The next renegotiation is scheduled in 1988 or, at the latest, 1989.

If, as the committee report says, we should comply with our existing treaties, international or executive agreements, then we should comply with that reassessment and renegotiation. We should not render futile and useless the stipulated renegotiation in 1988 or 1989 by foreclosing, by means of this Constitution, the possibility of extending the period of the bases treaty beyond 1991.

Let me submit additional reasons why this highly controversial bases issue should be kept out of the Constitution.

1. It is premature at this time to make a firm decision on whether or not to extend the RP-US Bases Agreement beyond 1991. Madam President, many things can happen; many things can change – things we cannot foresee now – between now and the year of renegotiation, which can materially affect our decision on this matter.

2. Since both sides are agreed on allowing the bases to remain until 1991 and since the committee itself says we should allow the bases to remain until 1991, why not allow the renegotiation to proceed as scheduled in 1988? Why block it now?

MR. SUAREZ. Madam President.

MR. RODRIGO. Let me finish first before I yield to any interpellation.

MR. SUAREZ. No, it is not an interpellation. Madam President, may I be recognized?

MR. RODRIGO. Madam President, I am in the midst of my speech.

THE PRESIDENT. Will Commissioner Suarez please allow Commissioner Rodrigo to finish first and then we will recognize him.

MR. SUAREZ. Parliamentary inquiry, Madam President, which, I think, is very prejudicial in character.

THE PRESIDENT. May the Chair know what is the parliamentary inquiry of Commissioner Suarez?

MR. SUAREZ. We have no intention to cramp the style of the distinguished colleague, but we have been listening with great courtesy to his dissertations and we are under the impression, Madam President, that this is the period for the sponsorship speeches, not for the discussions pro or *en contra*. The dissertation made by the distinguished colleague is practically a repudiation of the committee recommendation. May I suggest that our Floor Leader, with due respect to him, follow the parliamentary rules because our impression, Madam President, is that indeed this is the time for sponsorship and all of these sponsorship speeches should emanate from the members of the committee. Then for those who want to speak in favor, we certainly would have no objection. But let us play the game as it should be played, Madam President. May I appeal to the Floor Leader to abide by the Rules so that there will be no misunderstanding regarding this matter.

Thank you, Madam President.

MR. RAMA. Madam President, the idea here is to have an orderly pro and con debate. This is general debate. We are in the period of general debate.

THE PRESIDENT. Yes, Mr. Floor Leader. I have to support the statement of Commissioner Suarez because we have just started the sponsorship of the committee report, and I understand there are several members of the committee who are expecting to make their statements on the different issues contained in the report. Aside from the bases, there are other matters that have to be explained but maybe the Floor Leader was not made to understand that there are other speakers who are ready to make statements.

MR. RAMA. Madam President, may I inform the Chair that before I called on Commissioner Rodrigo, I asked Commissioners Suarez, Quesada and Azcuna whether or not they are agreeable to a pro and con discussion, and they were agreeable so I proceeded to call on Commissioner Rodrigo. But if that is what they want, then we will proceed with the sponsorship speech of everybody in the committee who would like to sponsor the report.

MR. RODRIGO. Madam President, I am more than halfway through with my remarks.

THE PRESIDENT. In as far as Commissioner Rodrigo has already started his remarks we will let him finish his dissertation.

MR. TINGSON. The committee agrees with the President. We would like Commissioner Rodrigo to finish first, then we will have Commissioners Azcuna and Garcia and other members of the committee who will speak later on.

THE PRESIDENT. Commissioner Rodrigo will please proceed.

MR. RODRIGO. Madam President, I go to my second reason for my stand that this provision should not be incorporated in the Constitution.

Let me repeat: Since both sides are agreed on allowing the bases to remain until 1991 – even the committee says so in its report – then why not allow the scheduled renegotiation to proceed, as scheduled, in 1988 or 1989? Why should we block it now? Why not give that renegotiation a chance? Who knows how our people would react to the renegotiated terms of the treaty? It is most probable that the amount of rental would be substantially increased; that the bases area would be significantly reduced; that Philippine sovereignty within the bases will be greatly enhanced; that conditions for Filipino laborers in the bases would be better protected; and that other problems, like criminal jurisdiction, customs rules, et cetera, would be better defined in our favor. I am sure that quite a number of our people would want to see and weigh beforehand those renegotiated terms before they form their judgment on whether to extend or terminate the bases agreement in 1991. Why deprive our people of that opportunity, Madam President? Why should we 47 appointive Commissioners be in such an uncalled-for hurry and haste to foreclose all options to our people for a renegotiation?

3. Let us recognize the fact that the President of the Philippines is in a much better position than we to judge this most important issue. The President is the Commander-in-Chief of our Armed Forces and is in control of all departments, bureaus and offices of our government. She has control over all embassies and consulates all over the world; hence, the President is better acquainted with all the facts which should be considered and weighed before arriving at a correct decision. It is not prudent for us to preempt, tie the hands and deprive the President of room to negotiate and maneuver.

4. I am of the firm belief that after the renegotiation is accomplished in 1988 or 1989, the draft of the renegotiated treaty should be submitted to our people in a national referendum or plebiscite for approval or disapproval. This proposal has been publicly announced by no less than Vice-President Salvador Laurel. Thus, there will be a thorough nationwide discussion of the pros and cons of this specific issue. Our people will be amply informed and they will be able to vote with full cognizance of facts and consequences.

5. It would be unfair to our electorate if this highly controversial provision is incorporated in the Constitution and submitted to a vote of our people in a plebiscite, together with the whole Constitution.

The proposed Constitution will be submitted, for ratification or rejection, as a whole document. Hence, voters who might want to vote against these particular provisions would be placed in the vexing predicament of having to vote against the whole Constitution, if they want to reject these particular provisions. Also, there are voters who might be so rabidly opposed to these provisions that they may just vote "no" to the whole Constitution even if the rest of it is acceptable to them.

This is not fair, Madam President. This would place many voters in the plebiscite in a predicament of "damned if you do, and damned if you don't."

6. Some people have asked me: "Is it not possible then to segregate the provisions on the bases from the body of the whole Constitution, so that in the same plebiscite, the voters can vote on said provisions separately from the whole Constitution?" My answer is: "It can legally be done, but it would be a departure from the normal practice."

Besides, Madam President, even if it can be done, it should not be done because it is undesirable. Why? First, because, as I have said, it is premature now to submit this issue to our people before the renegotiated terms have been agreed upon and made known to our people. Second, this highly sensitive and controversial issue cannot be amply discussed and understood by our people, if submitted to them simultaneously with the whole Constitution, because then this issue will be buried under a multitude of other controversial issues involved in the whole Constitution, like bicameralism vs. unicameralism; unitary vs. federal and presidential vs. parliamentary form of government; the abolition of the death penalty; adoption of sectoral and party list system of voting; introduction of the system of recall, initiative and referendum; expansion of agrarian and urban land reform; Filipinization and protectionism in our economy; protection of the unborn child from the moment of conception and many other controversial issues.

Hence, it is most unwise to insist that this issue be voted upon by our people simultaneously, although separately, with the whole body of our Constitution.

For these reasons, Madam President, it is my well-considered stand that we should not incorporate these provisions in the Constitution we are drafting.

At the opportune moment, I will move for their deletion.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Azcuna be recognized.

THE PRESIDENT. Commissioner Azcuna is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER AZCUNA

MR. AZCUNA. Thank you, Madam President.

I am speaking on behalf of the committee, Madam President, particularly with reference to the provision in the Article on the Declaration of Principles, Section 4, which reads:

> The Philippines is a nuclear-free country. No portion of its territory shall be used for the purpose of storing or stockpiling of nuclear weapons, devices or parts thereof.

Madam President, the proposal to incorporate in our very Constitution a provision declaring the Philippines as a nuclear weapons-free territory is not too radical as it might seem. It is the culmination, I believe, of modern trends in international law, as well as of modern political democracies, which has been noted by academic writers as a restructuring of the international order or R.I.O. This restructuring has been going on and has found its effects not only in the realm of economics and in the social dimensions of society, but also in the field of nuclear weapons.

I do not have to elaborate, Madam President, the enormous destructive capacity of nuclear weapons, particularly, because Asia has had the distinct misfortune of being the only place in the world where nuclear weapons were dropped and exploded during war. It was not too long ago that Asia and the world commemorated that fateful event. Since the dropping of atomic bombs in Japan towards the end of World War II, the technology of nuclear weapons has multiplied tremendously such that the weapons dropped in Japan are only used as trigger devices for the weapons of today. Those bombs were merely atomic bombs. The bombs of today are hydrogen bombs. Those bombs merely used fission as a principle. The bombs of today use fusion, the very power of the sun – fusion of nuclear particles, releasing tremendous energy.

An explosion of a nuclear bomb, Madam President, is considered an uncontrolled nuclear reaction. That is the definition of a nuclear explosion. What we seek to prevent from happening within our land is the occurrence of an uncontrolled nuclear reaction. Why put it in the Constitution? Why not leave it to the President, why not leave it to the Senate, to deal with these matters? Madam President, we are here framing a constitution. We are here in that part of the Constitution which we call the Article on the Declaration of Principles. We say that the Constitution is a reflection of the aspirations and the ideals, and even the fears, of our people. Then why be silent about this?

Madam President, this is at the heart of the aspirations, fears and ideals of the Filipino people. It behooves us to state, if we must have a declaration of principles, the principle that the Philippines should be free from this nightmare of nuclear weapons. It is a global aberration, Madam President, which we hope mankind will be able to reverse – the invention of nuclear weapons. It is unfortunate that the tremendous energy that lies in nuclear reaction was first used for destructive purposes. But the fact remains that the nuclear genie has been let out of the bottle, and man has since then been trying to put him back. It is within our golden opportunity, Madam President, to take the first initial steps along with our neighboring states all over the world to put that nuclear genie back into the bottle. The United Nations together with other countries, other states in Latin America, the Middle East and the South Pacific have all been through the past decade taking steps towards the declaration of nuclear weapons-free zones all over the world, region by region, so that time will come, hopefully in a not-too-distant future and hopefully not too late, that the whole world will then become a nuclear weapons-free zone.

As early as February 14, 1967, the states of Latin America already adopted the Treaty of Tlatelolco in Mexico, which declared South America as a nuclear weapons-free zone. Nearer here at home, on August 6, 1985, the states of South Pacific led by New Zealand, Fiji, Vanuatu and other states in the South Pacific converged to endorse the proposed Treaty of Rarotonga which seeks to declare the South Pacific a nuclear weapons-free zone. We are, in fact, not the leaders. It is our turn to declare this part of the world, or at least, this country of ours, a nuclear weapons-free zone.

We say, Madam President, that we will protect the arts; we will protect the culture of the Filipinos; we will protect our language. We have to protect the poor, the underprivileged, the undernourished and the disadvantaged. We have to protect the Filipino people. And yet, we do not want to state in our Constitution that we will ban nuclear weapons, the most single potent danger to all these. It is to me, Madam President, a defiance of logic. It reminds me of the parody of the policy of an administration in a cartoon in an American newspaper where the leader declares: "We have no money for roads; we have no money for schools; we have no money for farms; we do not even have money for industries. We cannot budget these things. But we have money for defense in order to defend the farms, the schools, the roads and the industries that we do not have money for." That, to me, is similar to our policy of saying: "We will protect the arts; we will protect our language; we will protect our culture." And yet, we do not say in the very Article on the Declaration of Principles that we will protect our people from the specter of nuclear weapons that threatens to wipe out all arts, all languages, all cultures.

It is, therefore, the proposal of this committee that in the very Article on the Declaration of Principles of our Constitution, we state this, at least, as a principle, not something absolute nor 100 percent without exception. We are talking of a principle that no portion of Philippine territory should be used for the purpose of storing or stockpiling nuclear weapons, devices or parts thereof.

Madam President, it may be questioned: Is this not going to be academic if there are U.S. bases in the Philippines? We will notice, Madam President, that the provision on nuclear weapons-free declaration is separated from the section on the U.S. bases, because the committee feels that this can stand independently from whether or not U.S. bases will be allowed to continue in the Philippines.

Why do we say this? To start with, Madam President, we can have U.S. bases without nuclear weapons. These U.S. bases did not have nuclear weapons in 1935 or in 1902 when they started. They have been here since 1902. If we give them 10 years extension, they will be here for a hundred years.

So at the time they started, they did not have nuclear weapons. Do they have nuclear weapons now? We do not know. The United States has adopted the policy of neither confirming nor admitting whether or not they have nuclear weapons in their bases around the world. So if we enter into a new treaty with the United States, it can very possibly provide one – that they will not have nuclear weapons stationed therein. It is not necessarily a position which the United States is unwilling to take. The United States has taken that position in its treaty with Spain. Its treaty with Spain bans the storage of nuclear weapons in Spanish soil. So why should we be given less?

The United States, likewise, does not really stockpile all of its weapons in one place; they have so many bases all over the world. It is a known fact that their ICBMs are in Guam; they are not here. What probably they would have here would be nuclear weapons carried by the naval ships. I would like to bring to the Commission's attention, Madam President, that the terms of the proposed Treaty of Rarotonga do not forbid major powers, within the context of a nuclear weapons-free zone, from carrying nuclear weapons on vessels. It is left to each participating state to adopt a policy whether or not to allow a foreign power to carry nuclear weapons on its ship while passing through its territory.

So this is not absolute. This is not an absolutist position; it is a statement of principle. And I believe, Madam President, that it is something we cannot, in the context of present realities, close our eyes to. It is the movement of the world. All over the world, there is a very strong demand to put this genie back into the bottle. We cannot close our eyes to that; we have to take the first step, and it is within our golden opportunity to do so.

Madam President, according to Henry Kissinger, the world today is faced with a situation where there are two fully armed combatants armed to the teeth but both blindfolded. However, each thinks the other is not blindfolded; that it is only he who is blindfolded. They both know that they are both armed to the teeth with all imaginable weapons. However, there is the feeling, the conviction, of one or both of them that one is blindfolded while the other is not. That is the kind of scenario we have, and we can just imagine what kind of fight they are going to have.

It is in this sense that we want the world to be freed from thermonuclear destruction. If we can limit the weapons that these two armed combatants have to nonnuclear weapons and to those that are not apocalyptic weapons of mass destruction, then perhaps the world can survive. We are talking of survival, Madam President.

The nuclear weapons according to Mr. Jonathan Schell in his book, *The Fate of the Earth*, threaten culture and art because they threaten generations, and art is the communication between generations. Also, Mr. Schell says that when you destroy generations themselves, then you destroy the communication between generations, which is art. So the greatest threat to art today is nuclear weapons.

It is, therefore, in this context, Madam President, that on behalf of the committee, I earnestly plead that we adopt the concept of heritage of mankind – that we have not merely inherited the world from our fathers; we have borrowed it from our children; that this fragile world of ours is for us to take care; that it will last not only for our children but also for their children.

I will now read, Madam President, the letter of a nine-year old student whose vision of the Philippines is spelled out in a short essay. She says: "I wish and hope for a Philippines where the grass is green; where no one is poor; where the roads are paved; where there are no posters on the walls; where there are no buses and jeepneys that dirty the air. I wish for a Philippines where no one is hungry," and she goes on and on. This vision of a Philippines is typical vision of a little child.

Are we going to have a future for her? That future is uncertain. In the words of President Kennedy and I quote:

> Only when our arms are sufficient, beyond doubt, can we be certain, beyond doubt, that they will never be employed.

I regret, Madam President, to say that unfortunately, today not even the United States can say that its arms are sufficient beyond doubt. That ideal, apparently, can no longer be attained by any power. As each progress in destructive capabilities is achieved, the next threshold is just around the corner. So when will it end?

It is, therefore, our sincere plea that we take this small step in declaring as a principle, just as a principle, that we seek our country to be free of nuclear weapons and that, as much as possible, we do not allow our soil to be used to stockpile nuclear weapons. We do it for our people, for our children and for the future that otherwise would not be.

Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Madam President, I would like to ask the committee who is the next speaker among its members.

MR. TINGSON. Commissioner Garcia is the next speaker.

THE PRESIDENT. Commissioner Garcia is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER GARCIA

MR. GARCIA. Thank you, Madam President.

I would like to speak on behalf of the committee to defend the second paragraph of Section 3, which states:

> The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

This section has a companion provision for inclusion in the Transitory Provisions, which reads:

> Upon the expiration of the RP-US Bases Agreement in 1991, foreign military bases, troops and facilities shall no longer be allowed in any part of the Philippine territory.

There are three major reasons why we are against the presence of foreign military bases in our land: 1) our national survival, the security and safety of our people, 2) our national sovereignty, and 3) our unique Filipino contribution to world peace and disarmament in this part of the world.

I realize that the arguments are complex and I will not be able to discuss all of these in the time I am allotted this afternoon, but I will just deal with the salient points. Hopefully, during the rest of our period of debate, we can tackle some of the other points that are part of this entire argument.

In a letter to the committee which summarized the points he raised during the public hearings held at the old Congress building on July 4, 1986, Senator Lorenzo Tañada stated:

> That the bases no longer serve the national interest should be clear to anyone who keeps himself well-informed of current affairs. Far from defending us – for until now there is no defense against nuclear missiles and we have no foreign enemies – they would pull us into the arena of nuclear conflict in the event of war between the United States and Soviet Russia. Because of their nuclear capability and the actual existence of nuclear weapons in the bases, we have become real targets for attack by any power at war with America, whether or not we ourselves are at war with that power.
>
> Any country's foreign policy must proceed from the paramount national interest. More paramount than any other national interest are the safety of our people and our survival as a nation. The bases, instead of guarding that safety and security, are now a threat to our survival. This fact can no longer be disputed. Protestations about the need for us to contribute our "bit" to the strategic defense of "freedom and democracy" are now empty and meaningless because for 14 years our own country lived under a dictatorship and was not free nor democratic, and this was with the full sanction and actual encouragement of the government of the United States. This was possible not despite but because of the existence of those bases and the rights granted to the U.S. under the Bases Agreement. The argument invoking the overall strategy of freedom's defense the world over is a false and hypocritical argument, for it is the strategic defense and global hegemony of the United States which these bases are all about, not our protection.

It is also our firm position that the Military Bases Agreement, *ab initio,* from the beginning, was basically flawed and, therefore, null and void and no renegotiations since then have been able to rescue that agreement from that fatal, historical aberration. Allow me to recount in brief the history of that original sin called "The Military Bases Agreement."

On January 17, 1933, the U.S. Congress passed the Hare-Hawes-Cutting Bill, which provided for a 10-year transition period towards Philippine independence and gave the U.S. President the authority to retain military and naval bases in the Philippines after independence.

On October 17, 1933, the Philippine legislature rejected the Hare-Hawes-Cutting Bill by concurrent Resolution No. 46 because, among other reasons, "the military, naval and other reservations provided in said acts are inconsistent with our independence, violate national dignity and are subject to misunderstanding."

Thus, in 1933, President Quezon was mandated to head another Philippine independence mission to the United States for more favorable terms from Washington. In his memoirs, President Quezon recalled that "President Roosevelt agreed . . . that the maintenance of American military reservations after independence would make . . . independence a farce."

Therefore, on March 24, 1934 and May 1, 1934, the Tydings-McDuffie Law was approved by the United States President and the Philippine Congress, respectively. It was virtually a restatement of the Hare-Hawes-Cutting Bill except for the "retention of bases and other reservations" which was reworded into "retention of naval reservations and fuelling stations," and only for a period of two years after the grant of Philippine independence.

Section 10 (8) of the argument provided that the U.S. President was authorized to renegotiate with the Philippine government and to settle all matters concerning the naval bases not later than this period. It also provided in Section 11 for the "perpetual neutralization of the Philippine Islands, if and when Philippine independence shall have been achieved." The 1935 Constitutional Convention incorporated all the provisions of the Philippine Independence Act or the Tydings-McDuffie Law in the 1935 Constitution which was approved by the people. Therefore, the Tydings-McDuffie Law bound the Filipino people and the U.S. government and became part of the Philippine Constitution. There could be no change without the consent of the Filipino people. In fact a 1939 plebiscite was held for simply minor amendments.

World War II broke out and due to American presence, the Philippines became a prime target for Japanese aerial bombardment. Quezon requested Roosevelt to immediately grant Philippine independence and declare its neutral status and appealed to Roosevelt a second time as a last-ditch effort to spare the Philippines from greater devastation. Quezon demanded the withdrawal of all U.S. bases from the country. Roosevelt flatly rejected Quezon's pleas.

On June 29, 1944, the U.S. Congress passed Resolution No. 93 which authorized the U.S. President – after negotiations with the Philippine Commonwealth President – to retain or acquire military bases here. In effect, this conveniently amended the Tydings-McDuffie Law, or worse, reenacted provisions of the Hare-Hawes-Cutting Bill which the Philippine legislature rejected. The U.S. imposed its will. Quezon had no choice but to accede.

On May 14, 1945, after Osmeña had succeeded Quezon as President, Osmeña and Truman signed an agreement allowing the retention and acquisition of military and naval bases in 19 provinces.

On July 28, 1945, the Philippine Congress approved Joint Resolution No. 4, authorizing the Commonwealth President to negotiate with the U.S. President on military bases. Its aim ostensibly was to ensure the territorial integrity of the Philippines, the mutual protection of the Philippines and the U.S., and the maintenance and protection of peace in the Pacific. Neither Resolution No. 93 nor Resolution No. 4 was ever submitted to the Filipino people for approval.

In a very interesting sidelight, allow me to read a letter which was sent to us very recently. It is a copy of a letter found by a researcher by the name of Stephen Shalom. It is a 1945 letter from General Douglas MacArthur to President Manuel Roxas which the researcher found in the MacArthur Memorial Library in Norfolk, Virginia. In the letter, MacArthur responds to Roxas' complaints about the excessive nature of U.S. government's demands regarding military bases in the Philippines. In fact, the Pentagon wanted army bases in Metropolitan Manila. "If agreement cannot be reached," writes MacArthur, "neutralization of the Philippines might be considered since there is really no military threat to the future security of your land."

Allow me to read pertinent parts of the copy of the letter written by MacArthur to President Roxas. He says:

> The question of bases is not in my hands. Washington has handled it from the beginning, and the decisions are made there, not here. The three departments – State, War, and Navy – are all involved and the American Ambassador and the Commanding General in Manila merely act as agents under the directives promulgated from the United States.
>
> . . . The question of foreign bases in any free country is a touchy subject at best and it can be accepted as axiomatic and immutable that the country of domicile must have the final word as to their acceptability. If agreement on basic principles and sites cannot be mutually attained for the Philippines, a possible alternate solution might be the neutralization of the islands. This was discussed by me with Quezon on several occasions, and I think it really represented his truest thought on the matter.

This letter is dated October 29, 1946. And then here is one of his last sentences:

> With the menace of Japan now eliminated, there is really no military threat to the future security of your land.

Future reports in the U.S. Congress in fact echo MacArthur's point that there is no immediate military threat to the Philippines, thus questioning the very validity of the argumentation regarding the alleged reasons why the bases were first established in this country.

There are successive numbers of resolutions in public hearings before the Senate and the House Foreign Relations Committee, which perhaps later on I can pass on to the Members of the Commission, that state from different authoritative sources, as from U.S. defense people, the same assessment: That there is no immediate military threat. The dates I remember offhand are: 1956, 1959, 1963, 1969, 1972, 1979 and 1983, all of them discussing the same lines that MacArthur had first enunciated.

On March 14, 1947, the Military Bases Agreement was entered into which violated the Philippine Independence Act and the Tydings-McDuffie Law which was part of the Constitution. This was a drastic change without the approval of the Filipino people, i.e., without a plebiscite. Consequently, it was an agreement that, *ab initio,* was null and void.

At the same time, we must take note that the early stage of negotiations must have settled the military bases question more than a year before the proclamation of independence. These negotiations were undertaken by the Philippine Commonwealth with all the infirmities of its legal personality as defined by the Tydings-McDuffie Law. Negotiations even took place in Washington and were conducted there by the Commonwealth government in exile, a government which literally subsisted on the benevolence of the Truman administration which added to the fact that legally the Commonwealth was a dependent State of the United States.

As early as April 1945, the U.S. Secretary of State, George Marshall, obtained an assurance from President Sergio Osmeña, as head of the Philippine government in exile, that he, Osmeña, would agree to U.S. proposals regarding military bases in the Philippines after the war.

On May 14, 1945, he signed with President Truman a secret preliminary statement of general principles pertaining to U.S. bases in the Philippines, incorporating all the provisions of a draft drawn in the U.S. War Department. The Military Bases Agreement, therefore, was a *fait accompli* long before it was formally concluded in 1947.

Even after renegotiations in 1956, again in 1976, the 1979 amendments and lately, more recently, the 1983 negotiations, Filipino Ambassador to the United States, Emmanuel Pelaez, concludes: "It is apparent that serious attempts have been made over the last 38 years to purge from the 1947 Military Bases Agreement the rights of extraterritoriality." Although much progress has been made, this is not enough. The bases continue to be American under the control and sovereignty of the United States.

Let me conclude by saying that the Constitution is a document of an eminently sovereign character, and the bases issue touches the very heart of our national sovereignty. We cannot shirk from our historic responsibility as a sovereign body drafting an equally sovereign charter.

There are many more arguments and thoughts I could share with the body. But for the meantime, let me share with you two letters we have received on this question on why we must tackle the bases issue bravely and fairly in our sovereign Constitution.

One of them reads:

> Let us not forget that through the years of martial rule, the U.S. bases in the Philippines were precisely used by the U.S. government as justification for wholesale support to the Marcos dictatorship. Indeed, as long as we harbor these bases in the Philippine territory, the U.S. shall always interfere in our internal affairs. Senator W. L. Fullbright, during the hearings on the bases issue, put this very succinctly when he said, "We will always resist any serious changes in political and social structures of the Philippine government which is very likely to be, in the long run, a detriment to the people of the Philippines."
>
> Not only are these foreign bases reason and instrument for foreign intervention in our country, they are above anything else a threat to our very survival as a people. Because they are a "major storage point for tactical nuclear weapons in the Western Pacific," and because they are a target of nuclear attack by enemies of the U.S. who may not be our enemies, the threat of nuclear annihilation hangs like a sword above our heads.

In the same way, therefore, that we see the need for specific provisions in preventing the restoration of dictatorship in our land, our bitter experience of hosting these bases likewise compels us to enshrine specific provisions in the Constitution banning from Philippine territory foreign military bases in order to protect our sovereignty and survival.

Finally, from the same letter I quoted earlier from Senator Lorenzo Tañada, he said:

> . . . it is erroneous to claim that incorporating in the Constitution the bases prohibition or any "restrictive element" relative to foreign policy has not been the practice in the past. The paramount interests of our country should always be openly and plainly stated in our fundamental law to serve as a guide and determinant of our policy and to shield and strengthen our policy-makers when they deal with representatives of superpowers who do suffer from a tendency to bully their way into getting what they want from the representatives of weaker and smaller countries.
>
> The primordial principle that foreign policy should have these constraints built into the constitution is in fact implied in the 1935 and the 1973 Constitutions where we provided in the Declaration of Principles that we renounce war as an instrument of foreign policy. This definitely was a "restrictive element" but nobody is seriously objecting to its continued inclusion in the new Constitution. Likewise, the ordinance appended to the 1935 Constitution provided what were in effect restrictive elements on our foreign policy.
>
> Today, new conditions have drastically changed the nature of war and the use of the bases. Nuclear weapons have also altered the character of those bases and from a seeming usefulness and advantage before, they have become a threat and a danger. The bases may bring monetary benefits to a few thousand Filipinos but they pose the real risk of death and destruction for millions and millions of Filipinos.

Let me end where I began. We are against the presence of foreign military bases in our land: 1) for reasons of national survival and the security and safety of our people; 2) for reasons of national sovereignty; 3) and finally, as our unique Filipino contribution to world peace and disarmament in this part of the world.

We have had a unique popular revolution in February 1986, basically political, largely peaceful. It is unedited, unfinished. We have the unique opportunity of sharing this rare Filipino experience and advancing the frontiers of world peace and disarmament in this part of the world. It will be done sooner or later but the sooner the better. Let us be part of a Filipino tomorrow, today.

Thank you.

MR. RAMA. Madam President, the next speaker from the committee according to the vice-chairman is Commissioner de Castro. I ask that he be recognized.

MR. TINGSON. Madam President, we would like to state here that our committee was divided on Sections 3 and 4. We have heard thus far one side of the controversy as it were, but Commissioner de Castro belongs to the minority of this particular committee report and he represents now the voice of the minority.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. If that is so, I would raise a point of order. It would not be proper for a member of the committee at this stage of the sponsorship to sponsor a minority view. That should only be considered as a speech in opposition. So that could be taken up during the *turno en contra,* not during the period of sponsorship.

RULING OF THE CHAIR

THE PRESIDENT. The Chair will recognize Commissioner de Castro inasmuch as there are two views and, therefore, the two views should be represented to the body before any debate shall ensue over this committee report.

Commissioner de Castro is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER DE CASTRO

MR. DE CASTRO. Thank you, Madam President.

I am a member of the committee and I speak for the minority in the committee.

Madam President, may I request the kind indulgence and patience of the Chair and my honorable colleagues in the discussions and debates on so vital an issue as the U.S. military bases. We may be quite lengthy in the presentation of our cause, but please allow us because any decision that we may make at this time may be the very life of our country whom we so dearly love and for whom we are prepared to sacrifice ourselves.

Madam President, my honorable colleagues in this august body, I rise to seek the deletion of the proposed Section 3(1) which states that the State shall pursue a zone of peace, freedom and neutrality, and Section 3(2) on the dismantling of the U.S. military bases and Section 4 which states that the Philippines is a nuclear-free country from the Article on Preamble, National Territory, and Declaration of Principles.

I am seeking the deletion of these sections, Madam President, not because I am in favor of retaining the military bases in our country, nor am I in favor of dismantling the same, but because I sincerely and honestly believe that the 47 of us here do not have the necessary information, nor the knowledge, nor the expertise to make a decision on these vital issues. I believe that these very important subject matters should be addressed to the executive and the legislative which have the necessary time from now up to 1991 when the agreement on the U.S. bases shall terminate and can avail of the expert advice of those knowledgeable on strategy, nuclear weapons, neutrality laws and agreements, nonalignments and other matters vital to the issues involved. They can study the same in depth and in such comprehensiveness that they will be in a better position to make an intelligent decision. It will be too presumptuous for us to preempt the executive and the legislative since even our people, based on our public hearings and the many communications we received, are also divided on these issues. From my limited knowledge of the issues affecting the U.S. military bases, Madam President, allow me to make this humble submission — the strategic importance of the Philippines.

The Philippines is located at strategic crossroads between the Pacific Ocean on the east and the South China Sea on the west. It is close to the Asian mainland, easily accessible to the Asian countries, and faces three critical naval features which may be called "choke points"; namely, the Straits of Malacca, Sunda and Lombok, which lead to the Indian Ocean, the Middle East, Europe, Australia and Africa. About one-half of Asia's oil supplies and four-fifths of its strategic materials pass through these choke points. In the case of Japan, about 92 percent of its oil supply has to cross the China Sea. From the Philippines, the U.S. naval and air forces can effectively protect regional air and sealanes leading to and from these choke points and nearby areas.

The two most important U.S. military facilities in the Philippines are the Clark Air Base and the Subic Naval Base. The Clark Air Base facilities permit constant surveillance of the choke points and areas around them, serve as a striking point of strategic airlifts into the Indian Ocean, and can handle large-scale aircraft deployments from the United States in case of emergency. The U.S. facilities at Subic Naval Base are the primary port, training area, and logistic support and maintenance base for the U.S. Seventh Fleet which operates in the Western Pacific and the Indian Ocean. The military significance of the U.S. facilities in Clark and Subic should be viewed in relation to the fact that the Russians have taken over the former U.S. military facilities at Cam Ranh Bay, just days apart after the U.S. evacuated the same. Cam Ranh Bay is about 700 miles or one hour's flying time west of the Philippines. The U.S. facilities in Cam Ranh Bay have been converted into a Soviet military base which maintains support facilities for submarines, surface ships and aircrafts, and supports the largest concentration of Soviet naval forces routinely deployed outside the Soviet Union.

The U.S. military facilities in the Philippines are considered to be the centerpiece of American military strategy in Southeast Asia. These military facilities, Clark Air Base and the Subic Naval Base, support U.S. air and naval operations in the Pacific, South China Sea and Indian Ocean, and offset the expanding Soviet military presence at Cam Ranh Bay and elsewhere in the Pacific.

From the viewpoint of Philippine interest, the U.S. facilities in Clark and Subic provide a deterrent and defense against external threat to our country, save our country from large amounts of military expense and enable our country to concentrate its limited resources on economic development.

History records the strategic value of the Philippines in relation to East and Southeast Asia during World War II. The first landing of the Japanese forces was in the Philippines – one in Lingayen Gulf and the other one was somewhere in Quezon Province, after neutralizing the U.S. naval forces in Pearl Harbor. The intent was to occupy Thailand, Burma, Southeast Asia, using the Philippines as a stepping stone to these areas.

I point this out, Madam President, to show the strategic importance of the Philippines, that the dismantling of the military bases is not an assurance that another power shall not be enticed to occupy such military bases or establish one in our country, especially in the light of the comments of Messrs. Alexi Drokov and Victor Gochakov, both members of the presidium of the Soviet Socialist Republics and recent visitors of this Constitutional Commission, who, in the words of columnist Jesus Bigornia in the *Manila Times* issue of August 18, 1986, said and I quote: "Scuttle the American military bases. If you don't, the Soviet Union will rain nuclear death on the Philippines."

These statements, to my humble understanding, are too naive, if not a direct threat to the sensibilities of the Filipino people. Nevertheless, I leave these statements to the wisdom of this honorable body.

Recently, 15 statesmen and scholars from the Philippines, United States, Japan, Korea and Taiwan convened in Manila between August 12-14, 1986 under the auspices of the International Security Council to consider, and I quote, "the Philippines and the security of South China Sea Region." The conferees, expressing their concern with the expanding influence of the Soviet Union in the region and the consequent threat to the security of the sea-lanes critical to the economies of the non-Communist states of Asia, issued the following statements reflecting the consensus of the conference, and I quote:

> The unremitting build-up of Soviet military capabilities in East Asia over the past two decades threatens to create a strategic instability that has ominous implications for all the nations of the region. Out of what was once a little more than a coastal defense force, Moscow's Pacific Fleet now constitutes the single largest component of the Soviet Navy.
>
> The Soviet Far Eastern Air Force has been enhanced with assets capable of threatening the sea-lanes throughout the entire western Pacific and Southeast Asia. Soviet missiles in Northeast Asia cannot only target objectives in North America_ now, but those as far south as the Philippines as well. Moreover, Soviet forces have succeeded in gaining access to basing facilities in Southeast Asia that afford them immediate reach over those sea passages critical to the economic survival of Japan, the Republic of Korea and the Republic of China in Taiwan.
>
> The military development in East Asia appears to constitute part of a long-term program of aggressive expansion on the part of the Soviet Union. The Kremlin is determined that the Soviet Union shall become the dominant Asian power. In order to accomplish that, Moscow must neutralize Japan and the newly industrialized nations of Northeast Asia. One way of accomplishing that is by deploying its capabilities along vital supply routes that thread through the choke points located at the entrance and exit of the waters of the South China Sea.

As I said before, Madam President, about 92 percent of Japan's oil supply passes through these choke points to China Sea. If these choke points are closed or controlled by a superpower, Japan's oil supply will have to travel halfway around the world. Eventually, Japan's economy has to fall on its knees to the power that controls said choke points and Japan is a power recognized in East Asia.

ZONE OF PEACE, FREEDOM AND NEUTRALITY

Section 3(1) of our Proposed Declaration of Principles mandates the State to, and I quote: "promote and establish, together with other States agreeable thereto, a zone of peace, freedom and neutrality."

This position would indeed be the best for every nation in this world – if it can be enforced. Who would not like to live in a zone of peace, of freedom and of neutrality?

Historical experiences, however, show that such a declaration of neutrality is just a beautiful dream.

Napoleon Bonaparte regarded neutrality as, and I quote: "a word without meaning" and deliberately violated it. In 1830 and again in 1848, neutrality was constantly violated during foreign revolutions. Neutrality was again violated during the Franco-Prussian War of 1870; during the First World War in 1914 and the Second World War in 1939. During the Second World War, documents show that Hitler envisioned the possibility of attacking France via Switzerland. Swiss neutrality was not a barrier to Hitler's ambitions. But Switzerland was strongly defended. Hitler then estimated that it would cost him dearly to pass through Switzerland and so he made a detour through another neutral country – Belgium. The neutrality of Belgium was never respected and it was violated because Belgium failed to provide a strong defense to maintain its neutrality.

The great American General, Douglas McArthur, said about war, and I quote: "There is no substitute for victory," meaning, that if victory can be attained by passing through neutral countries, the neutrality of those countries shall not be a substitute for victory.

One of the essential elements for a State to maintain the inviolability of its territory and airspace is a strong military defense. Failure to provide this strong military defense shall give an irresistible temptation for a superpower to occupy our country on the pretext that this superpower is invited by a political faction in the name of the people of this country (and there are many such factions masquerading today); or the obligation of the invader to deliver the country from its own poverty or backwardness (as what the Japanese alleged when they invaded the Philippines during World War II); or the desire to save it from the imperialists, et cetera (the common term used by the rallyists against the United States).

From the standpoint of national security, the consequences of removing the U.S. bases could be worst. The Military Bases Agreement is part of two other agreements with the United States – the Mutual Defense Treaty and the Military Assistance Program. Despite our repeated protestations of self-reliance, the Armed Forces of the Philippines is wholly dependent on American military assistance. At this point in time, the most we can produce on our own are ammunitions for small arms. The abrogation of the Military Bases Agreement would, of necessity, terminate the Mutual Defense Treaty and the Military Assistance Program. This would place our Armed Forces in an untenable position, faced as it is with a serious domestic problem – the insurgency – and the additional responsibility of defense, if we choose to declare neutrality, to maintain the inviolability of our territory to include defense of our air space.

DECLARATION OF NUCLEAR-FREE ZONE

The Philippines as nuclear-free zone is indeed a beautiful dream especially at this age of nuclear weapons.

May I ask: What would be the binding effect and practicality of such a declaration? Unless all nuclear weapons are destroyed from the face of the earth, Madam President, no nation can escape the terrible effects of a nuclear war which respects no national boundaries. The Chernobyl incident is of recent experience. A leak from its nuclear deposits caused alarm all over Europe and its radiation was recorded even in the Philippines. We can just imagine if there will be an exchange of nuclear weapons among the superpowers.

THE STRUGGLE BETWEEN TWO SUPERPOWERS

During the last several years, there has been a continuing global struggle between the so-called communist or socialist countries led by Soviet Russia on the one hand and the countries comprising the so-called "Free World" led by the United States, on the other.

In Southeast Asia, there are two opposing powerful naval and aircraft bases, just 700 miles apart from each other – the Soviet Cam Ranh Base in Vietnam and the American Subic-Clark Base complex in the Philippines. The United States has a mutual defense treaty and maintains military personnel and facilities in South Korea, while Russia maintains a friendship treaty and mutual assistance agreement with North Korea. Australia has military troops in Malaysia and New Zealand and has a mutual defense treaty with those two countries, plus Singapore and Great Britain; while Russia and Vietnam maintain military personnel in, and are trying to completely dominate, Kampuchea.

In the Pacific region, east of the Philippines, the United States, Australia and New Zealand used to have a mutual defense treaty called ANZUS. The United States maintains military facilities in Australia but the communists in Australia, following the pattern of political infiltration through trade unions – which has worked successfully in New Zealand and in many other countries in the world, the Philippines not excepted – are busy at work to alienate Australia from the United States and bring it closer to the Soviet Union. Meantime, the Russians have obtained fishing rights in a number of Pacific Islands which, if we are to follow past precedents, are usually followed by acquisition of naval facilities, landing rights for commercial and, eventually, military aircraft. The Russians are also trying to get docking facilities in Australia.

Twelve other nations of the world; namely, Portugal, Great Britain, the Netherlands, Belgium, West Germany, Spain, Italy, Greece, Turkey, Iceland, Japan and South Korea have mutual defense treaties with, and military facilities and/or troops of, the United States. On the other hand, Russia has mutual defense treaties or friendship treaties with, and military bases or facilities and/or troops in, North Korea, Vietnam, Poland, East Germany, Czechoslovakia, Hungary, Romania, Bulgaria, Cuba, Syria, South Yemen and other countries.

All the foregoing goes to show, Madam President, that there is practically no corner of the world that is free from the global struggle between these two powers. The Philippines is right in the middle of this struggle. Not only that, the Philippines has until now cast its lot with the free world and the United States.

The above narrations and observations, Madam President, are just the tip of the iceberg, so to speak, on so vital an issue as the U.S. military bases in the Philippines.

The executive and eventually the legislative, I am sure, have more expertise, information and advice on the subject. But before we finally leave the whole issue to the executive and the legislative, allow me to make some humble advice, based on my observation and experience on the issue:

1. A committee should now be formed composed of persons knowledgeable on the issues involved. There should be a plan both on the strategic and tactical, the economic and political stability. The people must be informed and their minds must be prepared for the moment of truth when they will have to make a definite stand on the military bases issue consistent with their security and well-being;

2. One year before the termination of the bases agreement or sometime in 1990, the United States must be informed that we are terminating the agreement. Let the issue of renewal of the agreement come from them;

3. If and when the United States decides to renew the bases agreement, then let us sit with them as equals and face the issue decidedly, truthfully and frankly, always

having in mind what is good for the country and the Filipino people;

4. The payments for the bases in our country must be in the form of rents, and I repeat, rents, and not in the form of assistance or aid, taking into consideration the rentals of U.S. bases in other countries such as Spain, $415 million a year; Greece, $501 million; Turkey, $938 million only for a listening post which can occupy no more than five hectares; Egypt, $1.75 billion only for landing rights; Israel, $1.4 billion only for landing rights compared with only $900 million for a five-year period for the Philippines.

These our committee must take into grave consideration.

Madam President, I hope I have made my position clear. Let us leave the issues to the executive and the legislative. We suggest to these branches of our government to make a thorough and complete study before we decide for our country and our people, and finally, let not our emotions be the basis of our decision because according to Commissioner Azcuna, and I join him, the survival of future generations rests on these issues.

Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I make a parliamentary inquiry?

THE PRESIDENT. Yes, the Commissioner may.

MR. SARMIENTO. Some of us are at a loss because of a seeming parliamentary malady or irregularity. We have resolved that the members of the committee should deliver their sponsorship speeches and, thereafter, for the Commissioners to interpellate and then participate in debates. But what we have, Madam President, is another scenario. The Commissioners are introducing amendments by deletion and making some suggestions. So, may we be guided, Madam President, because I learned from the chairman of the committee that there are two other speakers on different topics. One will be speaking on the right of the unborn from the moment of conception and another speaker on another controversial issue. What will prevent other Commissioners from speaking against their propositions?

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. The speaker who has just ended his speech, Commissioner de Castro, is considered one of the sponsoring speakers. He might have said something different from the others, but he is a member of the committee, and his speech is one of the sponsorship speeches.

Madam President, after this, we have only one more speaker on my agenda here, and that would be Commissioner Villegas speaking on Section 9.

MR. SARMIENTO. While it is true, Madam President, that the General is a member of the committee, I am disturbed by his statements. He is now moving for deletion and making some suggestions to the committee.

THE PRESIDENT. We have to listen to these speeches with some amount of understanding. We have also listened to the speeches of the others who spoke for the U.S. bases and other issues. So I suppose we have to understand that there are manners of projecting a certain issue. If Commissioner de Castro made, as you say, a mistake in opening his statement with a motion to delete, I think we should just discard that or rather, listen to it with some amount of understanding. That is what is required of us here. We are here to listen patiently to all these issues. We have not raised a voice against anyone that has spoken so far. So what I am asking from our colleagues is just to give each and every one the same amount of understanding, candor and sincerity to all the other speakers who will follow. I understand that Commissioner Villegas will speak on another issue covered by the committee report. After Commissioner Villegas, is there any other speaker from the committee?

MR. TINGSON. Madam President, Commissioner Nolledo will speak very briefly on Section 9, after Commissioner Villegas. I am sorry, I have the name of Commissioner Quesada and I did not know that she was going to speak. So, we will have Commissioner Quesada after Commissioner Nolledo.

THE PRESIDENT. Yes, because after Commissioner Villegas, the Chair was intending to call a suspension of the session, unless Commissioner Nolledo would ask that he be allowed to speak before the suspension of the session. So we will hear Commissioner Villegas.

SR. TAN. Madam President, may I just ask something?

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. Just to get it straight because we said "sponsorship." Are we to understand, therefore, that sponsorship could also mean "nonsponsorship"? That is the understanding. That is all right as long as we all understand that to be. Then my other point is: It would be good if we were told now what would be the procedure because this time, we are really making a procedure which we never followed. The Floor Leader should tell us how we should proceed because our procedure now is completely new. Then we will all try to understand each other.

THE PRESIDENT. All right. If I may explain, the procedure now is that we are giving the committee members the opportunity to express different views on certain topics or issues covered by the committee report. It is, I would say, unfortunate that there are divergent views on certain subjects. So we have to listen to this as part of the report of the committee. I think there is truth to that. We should not hide anything, the majority, the minority or whatever it is; we should hear all sides of the questions.

MR. TINGSON. Madam President.

THE PRESIDENT. The chairman, Commissioner Tingson, is recognized.

MR. TINGSON. Before Commissioner Villegas speaks, may I just attempt to put back some smile on our faces by saying that there are just as much excitement in other sections of our committee report as there are on the military bases issue. So, Section 9 states:

> The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. The State shall equally protect the life of the mother and the life of the unborn from the moment of conception. The natural right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the government.

Madam President, I ask that Commissioner Villegas, a member of the committee, be recognized to speak on this provision.

THE PRESIDENT. Commissioner Villegas is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER VILLEGAS

MR. VILLEGAS. Madam President, I would like to speak in favor, especially of the second sentence in Section 9 which mandates the State to equally protect the life of the mother and the life of the unborn from the moment of conception.

Commissioner Azcuna and others have talked about the possible annihilation of the world by a nuclear holocaust. May I remind the body that according to the U.N. Demographic Yearbook, every single year 50 million babies, unborn in the wombs of their mothers, are being killed. In the United States alone, every year 2 million unborn babies, some of them in their 8th month, are killed, prompting some pro-life Americans to refer to the American holocaust as paling in insignificance in relation to the monstrosity of Hitler against the Jews.

Madam President, although our good chairman has said that we should bring smiles back to all of us, it is very difficult for me not to be emotional about this holocaust. I will try as much as possible to stick to a very logical analysis of the problem at hand.

In the debates conducted on Section 1 of the Bill of Rights, various legal arguments were raised against the inclusion of the right to life of the fertilized ovum. And just to paraphrase Commissioner Villacorta, in legal necromancy, all types of legal refinements are cited to question the right to life of the fertilized ovum. Among other things, the question of personality of the unborn child from the moment of conception was raised.

I propose to review this issue in a logical manner. The first question that needs to be answered is: Is the fertilized ovum alive? Biology categorically says yes, the fertilized ovum is alive. First of all, like all living organisms, it takes in nutrients which it processes by itself. It begins doing this upon fertilization. Secondly, as it takes in these nutrients, it grows from within. Thirdly, it multiplies itself at a geometric rate in the continuous process of cell division. All these processes are vital signs of life. Therefore, there is no question that biologically the fertilized ovum has life.

The second question: Is it human? Genetics gives an equally categorical "yes." At the moment of conception, the nuclei of the ovum and the sperm rupture. As this happens 23 chromosomes from the ovum combine with 23 chromosomes of the sperm to form a total of 46 chromosomes. A chromosome count of 46 is found only – and I repeat, only – in human cells. Therefore, the fertilized ovum is human.

Since these questions have been answered affirmatively, we must conclude that if the fertilized ovum is both alive and human, then, as night follows day, it must be human life. Its nature is human.

Medical science, in the field of human reproduction and genetics, has so advanced that the question of when human life begins is already settled. It is not a debatable issue as far as medical science is concerned. There are no two ways about this. Human life begins at conception.

The controversy arises from the third question. This is where legal necromancy comes in – the legal necromancy that has opened the floodgates for 50 million abortions that are being committed on innocent lives year in and year out. Is this fertilized ovum a person? It seems to me that the true answer to this question lies not in physical or legal science, for the simple reason that there is no physical evidence of personality yet. The answer lies in the science of moral ethics which defines a person as an individual substance of a rational nature.

May I remind all that in the Constitution when we talk about the Declaration of Principles, we are talking mostly of principles that we borrow from the science of ethics which is speculative science. Precisely, the basic law is superior to legislation. Ethics is the source of the majority of these principles that we are declaring in the Article on the Declaration of Principles.

While it is true that no unicellular human being actually performs rational acts, it does not follow that its nature is not rational since, as we have said, it has all the primordial essential properties of humanity. Which is why there is absolutely no statistical probability that the fertilized ovum of a human mother will ever, ever turn into a frog as someone in this body facetiously remarked.

It would be most unfortunate, Madam President, if the law and the fundamental law at that were to be divorced from ethics — from ethical principles. And while it is true that the manifestations of essential personality are in real potency in the early stages of pregnancy, there would be no such real potency if essential personality were absent from the very beginning. This, to my mind, explains the difficulty of law to grasp the inalienable right to life of the human being upon conception.

Legal science often fails to transcend itself and establish itself upon the reality of life. Granted, however, that the ethical notion of personality is unacceptable to the legal mind; granted that the lawyers refuse to give the fertilized ovum its legal personality, from the foregoing evidence provided by empirical sciences — biology, genetics — and in the absence of proof that the human organism from the moment of conception is not a person, the law must presume that it is, or take the awesome risk of injustice to unduly terminate an innocent human life, which is far too great to take.

Let us remember that we are drafting here a fundamental law which enumerates basic and inalienable rights. And in so doing, we must not be constrained by inferior laws, particularly if they are effective or open to amendment or repeal or beset with internal contradictions. For example, let me mention how ridiculous American jurisprudence is in this regard. In the United States, the unborn child has the right to inheritance and damages while yet unborn; to get a blood transfusion over his mother's objection; to have a guardian appointed and other rights of citizenship. But in the United States, it does not have the most basic right of all, which is the right to life.

That is why, as was reported in a medical journal, *The California Medicine,* which interestingly is a journal known for its pro-abortion stand, there is this following condemnation of American morality which says:

> Since the old ethics has not yet been fully displaced, it has been necessary to separate the idea of abortion from the idea of killing which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact which everyone really knows — that human life begins at conception and this continues whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that the schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted, the old one has not yet been rejected. So schizophrenia is the characteristic of American jurisprudence on this issue. Beyond these legal technicalities that we must regard as secondary, other arguments, arguments of principle and of pragmatism have also been raised. The so-called hard-case arguments which are always the key to open the floodgates to millions of abortions, the alleged conflict of rights between fetus and mother, the economic arguments favoring the option to abort, all have been put forward.

Madam President, let me dwell on these hard cases because once and for all, we give answers to the hard-case arguments. There are those who say that the possibility of abortion should be allowed for certain hard cases such as in pregnancies resulting from rape or incest. Should we not be open to abortion in these exceptional cases for reasons of compassion for the women? No. The main reasons why we should say "no" are: (1) a wrong cannot be righted by another wrong; (2) no one should be deprived of human life without due process and we have established scientifically that from the moment of conception, the fertilized ovum already has life; and (3) a fetus, just like any human, must be presumed innocent unless proven guilty. It is quite obvious that the fetus has done no wrong. Its only wrong is to be an unwanted baby. Besides, laws that would legalize exceptions would be prejudicial to the common good. As the proverb says, "hard cases make bad laws." What is the danger in allowing exceptions in hard cases? The danger is that any exception made in legislation and in courts of law creates a precedent, a leak in the dike that can turn the exception for a few into the rule for all. This has happened in England, in the United States and in other so-called advanced countries.

Let me just cite some very glaring statistics. After the notorious *Roe v. Wayde* decision of the U.S. Supreme Court on January 22, 1973, these are the statistics on abortion: Before that date, illegal abortions in the United States numbered 100,000 a year; immediately after, in 1972 when the decision was made, there were 586,000 abortions; then in 1973, that increased by 27 percent or 745,400 abortions; and another 20 percent increase in 1974 or 900,000 abortions. And as I reported today, there are more than 2,000,000 abortions in the U.S. So clearly, the floodgates have been opened.

Now, how frequently can pregnancy result from rape, this so-called hard case? Are there statistics available on this? Cases of pregnancy resulting from rape are extremely rare. In the United States, rough calculation showed that the chances of conception by rape is 22 for every 3.5 million fertile women or .006 percent probability. In Czechoslovakia, out of 86 thousand successive abortions, 63 were claimed to be caused by rape or .07 percent probability.

Why is it difficult to enforce a law that exempts women pregnant from rape or incest from anti-abortion laws? What is meant by this difficulty of proving rape? Rape is a difficult crime to establish mainly because of the reluctance of rape victims to report immediately. It is even more difficult to prove that a pregnancy is the result of rape, especially if the woman is married or known to have an active sex life. Allowing abortion for rape or incest or any other hard case for that matter invites a flood of bogus hard-case abortions. What about mental health? What if the mother is mentally ill? Can her baby not be aborted? The mental illness of a pregnant woman is no valid reason for legal abortion. A mother's mental illness does not necessarily cause the same mental illness in the fetus. The problem, therefore, is not the pregnancy but how the child will be nourished and reared after birth. The solution lies in social services, and we have devoted a lot of time to making sure that this just and humane society that we are trying to establish will be giving social services to all without exception, especially the underprivileged. And the most underprivileged of them all is the unborn child who cannot even scream or run away or do anything to protect himself. It is also worth noting that abortion itself has been found to be a cause of mental disturbance. Instead of being a solution to an unwanted pregnancy, it has even resulted in stress, anxiety and guilt that follows normally after committing a crime. And I really have found one of the arguments being propounded by those who object to this and who say: "Why criminalize a situation that already has brought so much anguish on the woman." That is a very amusing argument. Precisely, the anguish is there because whether she likes it or not natural law has implanted it deep within her. She knows she has committed a crime. And it is not a matter of criminalizing something which is not a crime. Her psychological trauma proceeds from the fact that she knows she has been a criminal. What if it is discovered that the baby is deformed or disabled? Would it not be better to spare it from living as a cripple by aborting it? No. Behind this course of action are a racist philosophy and the pleasure principle. It is logical for the philosophy of pleasure to conclude that persons who cannot enjoy life must not be allowed to live. This will eventually lead to an obsession with racial purity, no different from the Hitlerian mania for the purity of the Aryan race. Death is never a solution to the problems of life. The humane solutions to disabilities of some lie in the social and loving concern and abilities of the more fortunate.

What if the woman cannot afford to raise another child decently because of poverty? Would it not be better to allow her to kill the baby instead of letting it live a miserable life and adding to the burden of the rest of the family? To use poverty as a reason for the legalization of abortion would be tantamount to saying that only the rich have a right to life. This is a gross violation of justice. The problem of the poor woman is that she is poor; not that she is pregnant. We would be escaping from the root causes if we resort to abortion as a solution. We must rather solve the real problem and leave the innocent baby alone. Again, the solution lies in social services and equitable distribution of wealth, concerns of private individuals and of the government. And in this regard, let me say that I would also be against any provision in the Constitution we are writing which would give a mandate to the State to determine a so-called "optimum population" of the country, giving the State the power to be God as you have been reading in some materials distributed. The conventional wisdom right now is that the most effective solution to the population problem is economic development and social justice. If we address the root causes of economic underdevelopment and social injustice, the population problem solves itself. This has been shown by hundreds of countries that have developed ahead.

What if a doctor has to choose between the life of the child and the life of the mother? Will the doctor be guilty of murder if the life of the child is lost? The doctor is morally obliged always to try to save both lives. However, he can act in favor of one when it is medically impossible to save both, provided that no direct harm is intended to the other. If the above principles are observed, the loss of the child's life is not intentional and, therefore, unavoidable. Hence, the doctor would not be guilty of abortion or murder.

I am sure Commissioner Nolledo can give the jurisprudence on this case, the application of the moral principle called the principle of double effect. In a medical operation performed on the mother, the indirect sacrifice of the child's life is not murder because there is no direct intention to kill the child. The direct intention is to operate on the mother and, therefore, there is no dilemma. And let me say that medical science has progressed so much that those situations are very few and far between. If we can produce babies in test tubes I can assure you that those so-called dilemma situations are very rare, and if they should occur there is a moral principle, the principle of double effect, that can be applied.

What would you say are the solutions to these hard cases? The most radical solution to these hard cases would be a caring and loving society that would provide services to support both the woman and the child physically and psychologically. This is the pro-life solution. The abortion solution, on the other hand, not only kills the fetus but also kills any care and love that society could have offered the aggrieved mother.

Implicit in all these arguments is the petition for the Constitution, the arguments against Section 9, requiring the State to equally protect the life of the mother and the life of the unborn from the moment of conception. These arguments want the Constitution to be open to the possibility of legalized abortion. The arguments have been put on record for the reference of future legislation and jurisprudence. There is reason to fear that the Constitutional Commission itself shall be used to buttress the inevitable campaign for legalized abortion in the Philippines, unless we explicitly provide the phrase "from the moment of conception." Let us not fall into the trap and just say we will protect the unborn. That is a trap. If life is not protected at the beginning, there is absolutely no reason to protect it at any other period. Let us not kid ourselves about this possibility. We, as a nation in economic crisis and with a large population, are very vulnerable to the temptation to legalize abortion. There are lessons we must learn from other countries. Must we be blind to the experience on abortion of the so-called developed countries? Let us be assured that the International Parenthood Federation is not about to relax until abortion is made legal in the Philippines.

May I call to mind, Madam President, Proposed Resolution No. 175 of which I am a proponent together with Commissioners Quesada, Sarmiento, Bengzon, Colayco and Romulo. In this resolution we insisted precisely on a balanced regard for the right to life of the pregnant woman together with that of the child itself.

The formulation in Section 9 of the proposed Declation of Principles is, to my understanding, adequate and proper. It gives due regard to the right to life of the mother in case of ectopic pregnancies – pregnancies where the fertilized ovum is implanted in some other places except the uterus – and so-called medical dilemmas. At the same time, it restrains a discontented woman from killing her unfortunately unwanted child which, although currently depending upon her, is really a distinct and separate human being. So, this argument of a few women that they should have the right to do whatever they please with their body is completely irrelevant. The fertilized ovum is already a separate body. It is no longer the body of the woman.

What is being affirmed in this formulation is the moral right as well as the constitutional right of the unborn child to life. If this should entail the granting of presumptive personality to the unborn beginning at the moment of the conception, then so be it. This is one for the lawyers to work out. This right would include basic primate prenatal care it can only receive if the care and attention due to the mother is also provided. Respect for the rights of the woman with child and respect for the rights of the child in her womb are by nature intimately linked such that any deliberate harm that should come upon one will doubtless effect a corresponding harm to the other. Conflict of rights is fictitious. If the woman has her basic rights and the unborn child's right to life is also recognized, would this not result in a conflict of rights? The conflict is only apparent. It is easily resolved by applying the following principle: When two rights come in conflict, the more basic right and/or the right concerning the graver matter takes precedence over rights involving the less basic or less serious matter. It is clear that the right to life is more basic than the right to privacy or any other posterior rights. Therefore, since removal of the fetus would most certainly result in a violation of its right to life, the woman has no right to evict the temporary resident of her private womb. Moreover, if a mother can kill her own child, what is there to prevent us from killing each other? Madam President and my fellow Commissioners, it is said that the law is hard but, nevertheless, is law, *dura lex sed lex.* But even more demanding is life, *dura vita sed vita.* Let us bear in mind that law is for the sake of life. The law must come from life and not vice versa. The views I express here transcend religious differences. As I have declared in another occasion, this is not a Roman Catholic position. Since time immemorial, even before Christianity was brought to our soil, as you very well know, our ancestors referred to the baby in the womb of the mother as tao – siya'y nagdadalang-tao. Ang dinadala ay tao; hindi halaman, hindi hayop, hindi palaka – tao.

Madam President, let me also quote from a non-Christian in our Commission. In a public hearing, the honorable Commissioner Uka said the following: "As a Muslim, I believe in the Ten Commandments, and one of the Ten Commandments is "Thou shalt not kill." From the time of conception, there is already life. Now if you put down that life, there is already killing, a violation of one of the Ten Commandments. The overwhelming majority of Filipinos agree with Commissioner Uka that we should support Section 9. We have received up to now more than 50,000 signatures from all over the Philippines, from individuals belonging to all walks of life. I do not think there is any other issue in which we have been bombarded with more numerous signatures. Let us, therefore, listen to all of them and mandate that the State should equally protect the life of the mother and the unborn from the moment of conception.

Thank you, Madam President.

MR. TINGSON. Madam President, Commissioner Nolledo would rather speak his brief piece after our recess.

Start MB

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 5:04 p.m.

RESUMPTION OF SESSION

At 5:45 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Nolledo be recognized.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

I would like to speak very briefly in support of the second sentence in Section 9 of the report of our committee.

Madam President, the first Commissioner to speak in support of this provision was Commissioner Joaquin Bernas, when the Committee on the Bill of Rights, headed by Commissioner Jose B. Laurel, made its report before the Constitutional Commission.

Apropos of this provision, Madam President, I would like to say that the unborn from the time of conception has life. It is human and it possesses presumptive personality.

Pursuant to Article 40 of the Civil Code of the Philippines, the conceived child shall be considered born for all purposes favorable to it as long as it be born normally later. Thus, under our laws, Madam President, a conceived child can accept a donation; it can inherit.

Under the Doctrine of Presumptive Personality, Madam President, it is my firm belief that protecting the unborn from the time of conception is giving meaning and substance to the constitutional declaration that the State recognizes the dignity of the human personality, and to the constitutional injunction that in educating the youth, our curriculum should include love of humanity.

This Commission values human life when it also decided to abolish the death penalty. If an erring adult should be protected against destruction by abolition of the death penalty, how much more a helpless and highly innocent human being in the womb of the mother?

Killing the fetus, while categorized as abortion in our Revised Penal Code, is plain murder because of its inability to defend itself. Let the unborn, Madam President, the unborn which is a cherished, precious and loving gift from God, enjoy constitutional protection in a Christian country like ours.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Monsod be recognized for a reservation on the Article on Human Resources.

MR. MONSOD. Madam President, we have been waiting for a clean copy of the Article on Human Resources. We still do not have it and I just wanted to make a reservation that upon seeing it, we might want to propose some clarifications, consolidations or amendments. Since we do not have a copy, I do not want to be precluded on a technicality, Madam President.

THE PRESIDENT. Let that reservation be recorded.

MR. RAMA. Madam President, I ask that Commissioner Quesada be recognized.

THE PRESIDENT. Commissioner Quesada is recognized.

MR. TINGSON. Madam President, our committee member, Commissioner Quesada, is speaking not only on a particular section but this time on the concept of sovereignty found not only in Section 1, which states:

> The Philippines is a republican and democratic State. Sovereignty resides in the Filipino people and all government authority emanates from them and continues only with their consent.

So, Madam President, she is speaking on the concept of sovereignty.

THE PRESIDENT. Commissioner Quesada is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER QUESADA

MS. QUESADA. Thank you, Madam President.

Actually, the inspiration to talk about sovereignty is to reflect back on our Preamble and not just on the first section of our Article on the Declaration of Principles. We did say in our Preamble:

> We, the sovereign Filipino people, imploring the aid of Almighty God in order to build a just and humane society and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality and peace . . . .

Reflecting on our Preamble, I would just like to ask whether in fact the provisions that we have drafted so far truly reflect that we are a sovereign Filipino people.

Earlier today, we heard of a position that would try to delete two provisions that we are attempting to enshrine in our Constitution. I believe that this is a very rare opportunity for this constituent body to prove that we are indeed a sovereign Filipino people. For what is sovereignty? Sovereignty is an inalienable right of an independent country. It is a prerequisite for a country to exercise its statehood without which a nation cannot be considered a State, much less an independent one. A sovereign country is one that exercises full control and governance over all its territory and over the affairs within that territory, moving towards a direction that is in fulfillment of the needs and aspirations of the vast majority of the people rather than towards a direction chartered by an alien power. A State that does not command dominion over every inch of its territory is certainly not a sovereign state.

There are degrees of sovereignty. Either a state is sovereign or it is not; neither is there such a thing as a shadow of sovereignty. When we talk about the foreign bases and review the historical facts, we note that indeed sovereignty is not exercised by the Filipinos. For example, in a discussion paper presented by Mr. Gerardo G. Valero, the grandson of Commissioner Concepcion, it is reported that: 1) foreign bases as understood in the Philippine context do not exist in countries like Spain, Greece or Turkey, because here in the Philippines, the U.S. bases are extraterritorial enclaves, little Americas where Philippine laws do not apply; 2) Philippine criminal jurisprudence cannot be enforced unless the U.S. base commander chooses to cooperate; 3) Philippine currency is not accepted in the bases and Filipinos cannot enter there; 4) Filipinos cannot explore and exploit the natural resources in the bases; 5) all information produced by the installations including raw data shall be shared by both governments.

In both the 1935 and 1973 Constitutions and even in the proposed Article II of the new charter, it is declared that sovereignty resides in the people and all government authority emanates from them. If this is so, then only the people themselves must decide on matters that concern their sovereignty. Sovereignty, therefore, cannot be a matter of legislation nor can it be an executive prerogative. Its very essence does not allow it. However, sovereignty can be waived by the people. They can, for instance, relinquish their sovereign rights over a fraction or a part of their national territory if they may so decide. But this must be done only through an exercise that would assert their sovereign will as a people. In short, the people can decide to waive their sovereignty as an act of sovereign will.

We, therefore, beg of all of you and we have been begging all these weeks and months to prove that we are indeed a sovereign people. Let us become a constituent assembly with plenary powers to discuss the breadth and scope of our sovereignty and decide all issues on questions relevant to sovereignty. It includes such issues as those proposed in our article – the issue of neutrality, nonalignment, a nuclear-free Philippines and "no" to foreign military bases in our shores.

Thank you, Madam President.

MR. TINGSON. Madam President, another committee member, Commissioner Rosario Braid, would like to speak briefly on the social aspects of the military bases; that would be Sections 3 and 4.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER ROSARIO BRAID

MS. ROSARIO BRAID. Madam President, many of us have read the articles of Father Shay Cullen, the Colomban priest who runs a drug treatment center in Subic Bay. This is the same Irish priest who exposed child prostitution some few years ago where he revealed children from 9 to 14 years old have been involved in this oldest profession.

Olongapo is a city of 255,000 people whose livelihood and economic survival are based on sex for sale. There are 16,000 women registered with the social hygiene clinics. There are 500 clubs, bars, hotels, Turkish baths and massage parlors. Of the more than 20,000 prostitutes, more than 9,000 are registered, 8,000 are unlicensed and 3,000 are part-time prostitutes. The rest of the population are in support services of this profession, renting apartments to sailors so they could have a place to meet with their girlfriends. Some of the policemen cooperate by keeping the streets safe for the sailors. Some of the members of the legal profession even service quarrels with sailors when they get into trouble.

In Angeles City, near Clark Air Base, there are 450 hotels, cabarets, disco joints, bars and cocktail lounges which employ over 7,000 hospitality girls. Many children in these cities grow up virtually on their own in the streets and it is inevitable that a significant number of them will eventually turn to prostitution. Two villages, named Macapagal and Marcos, live on American garbage. These villages are adjacent to Clark Air Base. Many of the residents are tribal Filipinos, the so-called Aetas or Negritoes. They are scavengers and live by scavenging scrap metal obtained from the dump. However, since they are regarded as security risk, they are treated like basketballs and forced to move from one end of the base to another by base officials. I have personally interviewed these Aetas when they were being resettled way back during the Sacobia Development Program of the past administration. I talked to them again during a recent public hearing with cultural communities and their plight had not changed. The Philippine Labor Code developed under the Marcos regime contains some of Asia's most repressive anti-worker provisions. Nonetheless, the U.S. military has insisted on introducing even stricter labor regulations. About 15,000 of 18,000 employees in Clark are contract workers who have no security. Workers are treated as no-class citizens, often insulted and sometimes treated like dogs.

Finally, in the name of sovereignty and pride, we should abrogate the bases agreement in 1991.

During the last nonalignment meeting in Harare, the Philippines was given only an observer's status because of the bases, although we have been knocking constantly on the door of the Non-Alignment Conference. I was in Sri Lanka in 1975 when our own Philippine group, to their embarrassment, were late because they had a difficult time getting an observer's status. They attended the conference as guests. Our other ASEAN neighbors had no difficulty in being granted membership and permanent observer's status and yet the Philippines has always been excluded. If we would like to move away from our perception of the North as our primary reference group and look at the ASEAN region as our principal reference group, we should start to show now that we are truly a sovereign state.

Thank you, Madam President.

MR. TINGSON. Madam President, I would like to tell the Floor Leader that this afternoon, we do not have any more sponsorship speeches from the committee members. However, Commissioner Aquino, who is a member of our committee, would like to speak tomorrow morning. Her father, I think, is sick, and so she is not able to do it today.

THE PRESIDENT. What else do we have for this afternoon, Mr. Floor Leader?

MR. RAMA. Madam President, the Vice-President would like to speak on Section 9.

MR. PADILLA. Madam President, after the sponsorship speech of Commissioner Villegas on Section 9, I wanted to state that I fully concur with his views in support of Section 9 on the right of the unborn from conception. I found his exposition to be logical, not necessarily creative, much less critical, but logical. Madam President, I would like to state that the Revised Penal Code does not only penalize infanticide but it has various provisions penalizing abortion; Article 256, intentional abortion; Article 257, unintentional abortion; Article 258, abortion practiced by the woman herself or by her parents; and Article 259, abortion practiced by a physician or midwife and dispensing of abortives.

However, I believe the intention of the proponents of Section 9 is not only to affirm this punitive provision in the Penal Code but to make clear that it is a fundamental right that deserves to be mentioned in the Constitution.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Guingona be recognized.

THE PRESIDENT. What period are we in now?

MR. RAMA. We are still in the period of sponsorship and debate.

MR. SARMIENTO. Madam President, again may we be clarified because Commissioner Aquino is reserving her sponsorship speech. May we know if that period has been terminated?

THE PRESIDENT. The Chair understands that Commissioner Aquino will still continue. Perhaps we can have the interpellation tomorrow after the sponsorship speech of Commissioner Aquino. What is the opinion of the committee?

MR. TINGSON. We would like to give our committee members, Madam President, an opportunity to express themselves. I have just talked with Commissioner Aquino and she said she was just going to submit her speech. Madam President, may we please hear from Commissioner Aquino?

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 6:02 p.m.

RESUMPTION OF SESSION

At 6:10 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Madam President, as suggested by the President and the committee, the discussion on the military bases will go on tomorrow.

In the meantime, I move for adjournment until tomorrow at nine o'clock in the morning.

ADJOURNMENT OF SESSION

THE PRESIDENT. We will take up Sections 1, 2 and 3.

The session is adjourned until tomorrow at nine o'clock in the morning.

It was 6:10 p.m.

R.C.C. NO. 82
Saturday, September 13, 1986

OPENING OF SESSION

At 9:47 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Christine Tan.

Everybody remained standing for the Prayer.

PRAYER

SR. TAN. We will say our Prayer with the Hindu poet, Rabindranath Tagore.

Where the mind is without fear and the head is
 held high;
Where the knowledge is free;
Where the world has not been broken up into
 fragments by narrow domestic walls;
Where words come out from the depth of truth;
Where tireless striving stretches its arms
 towards perfection;
Where the clear stream of reason has not lost
 its way into the dreary desert sand of dead
 habit;
Where the mind is led forward by Thee into
 ever-widening thought and action;
Into that heaven of freedom, my Father, let
 my country awake.
 Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Absent
Aquino	Absent
Azcuna	Present*
Bacani	Present
Bengzon	Present*
Bennagen	Present
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present*
Garcia	Present
Gascon	Present*
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present
Ople	Present
Padilla	Present
Quesada	Present*
Rama	Present
Regalado	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present*
Suarez	Present
Sumulong	Present
Tadeo	Present
Tan	Present
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present

The President is present.

The roll call shows 35 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Mr. Antonio A. Balgos of Villa Rica, Banica, Roxas City, expressing doubts whether the new Constitution will be ratified because of the inclusion of controversial and divisive issues, suggesting therefor that in the plebiscite, there must be only one "yes-no" vote on the main body of the draft which includes all "non-controversial" sections and to have separate "choice" votes by the people to allow them to select between two opposing versions of provisions of controversial sections.

(Communication No. 882 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from the officers and members of the Commission on Population, NCR Office, expressing their support on the basic primacy of human dignity and freedom in individual decisions concerning family planning.

(Communication No. 883 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Geronimo R. Cruz of 34 Lilac, SSS Village, Marikina, Metro Manila, suggesting that the completed Constitution, when presented to the electorate for approval, should exclude the controversial provisions of the Article on National Economy and Patrimony so that the voter will just approve/disapprove (a) the whole Constitution without said provisions and (b) only such controversial provisions.

(Communication No. 884 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from Dr. Frank Y. Arcellana, President of the National Organization against Nuclear Power and Nuclear Weapons (N.O. Nukes), requesting for a few minutes of the Constitutional Commission's time during the first day of its deliberations on the Declaration of Principles for the consideration of the Constitutional Commission so as to make a formal presentation of the first batch of signatures that it has gathered as part of the campaign for the inclusion of "nuclear-free" provisions in the new Constitution.

(Communication No. 885 – Constitutional Commission of 1986)

To the Steering Committee.

THE PRESIDENT. With respect to this particular communication, the same has already been accomplished with the submission of the two volumes on signatures. So there is no need to refer this to the Steering Committee but to the Committee on Preamble, National Territory, and Declaration of Principles.

THE SECRETARY-GENERAL, *reading:*

Letter from Mr. Pedro R. Feliciano of 117 Quezon Avenue, Angono, Rizal, submitting for consideration various proposals regarding the establishment of national, provincial, city, and municipal museums; the rule of command responsibility; the Philippine flag; and the collection of taxes.

(Communication No. 886 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Mr. Teotimo Ponce Rosaceña of 1191 Sto. Rosario Street, Pandacan, Manila, suggesting, among others, that if school personnel decide to go on strike, their application should be filed before the opening of classes and be displayed in corners accessible to the viewing public.

(Communication No. 887 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Felino C. Marcelo of Taytay, Rizal, urging the Constitutional Commission to incorporate in the Constitution a provision on the inviolability of the Church and the State.

(Communication No. 888 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Ms. S. Galia, transmitting Resolution No. 65, s. 1986 of the Sangguniang Bayan of Catarman, Camiguin, suggesting to the Constitutional Commission to reserve the title "President" to the President of the Republic only.

(Communication No. 889 – Constitutional Commission of 1986)

To the Committee on the Executive.

Letters seeking to incorporate in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

1) Two hundred ninety-three students of St. Joseph's College, Quezon City, with their respective addresses.

(Communication No. 890 – Constitutional Commission of 1986)

2) Dr. Nelo L. Conol and fifty-nine other residents of Cagayan de Oro City.

(Communication No. 891 – Constitutional Commission of 1986)

3) Dr. Gerard Perlas and sixty-two other concerned citizens of Caloocan City.

(Communication No. 892 – Constitutional Commission of 1986)

4) Ms. Vivian Fraga and twenty-six other concerned residents of Barangay No. 32, Legaspi City.

(Communication No. 893 – Constitutional Commission of 1986)

5) Twenty-six students and teachers of St. Raphael's Academy, Legaspi City.

(Communication No. 894 – Constitutional Commission of 1986)

6) One hundred forty-six students of Aquinas University of Legaspi, Legaspi City.

(Communication No. 895 – Constitutional Commission of 1986)

7) Mr. Cesar C. Bilbao and one hundred ninety-one signatories from the Asian Development Bank.

(Communication No. 896 – Constitutional Commission of 1986)

8) Six thousand five hundred eleven signatories from UP-PGH and other hospitals, UST, UP, San Miguel Corporation and government employees.

(Communication No. 897 – Constitutional Commission of 1986)

9) Three hundred fifty-three concerned citizens working at International Packaging, Inc., Libis, Quezon City.

(Communication No. 898 – Constitutional Commission of 1986)

10) Ms. Ma. Lourdes T. Pektipekit and one thousand two hundred eighty-nine other signatories from Cebu City.

(Communication No. 899 – Constitutional Commission of 1986)

11) One thousand three hundred eighty concerned citizens from Malita, Davao del Sur.

(Communication No. 900 – Constitutional Commission of 1986)

12) Nine hundred twenty-eight signatories from schools, colleges and universities in Metro Manila.

(Communication No. 901 – Constitutional Commission of 1986)

13) Vice-Mayor Hector Ruiz of Olongapo City and four hundred forty-nine other concerned citizens of the city.

(Communication No. 902 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letters urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, from:

1) Mr. George N. Capaque
Inter-Varsity Christian Fellowship
P.O. Box 2094, Manila.

(Communication No. 903 – Constitutional Commission of 1986)

2) Ms. Ruth Pujadas and three others
Making Evangelical Church
Parang, Maguindanao

(Communication No. 904 – Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. I move that we continue the consideration on Second Reading of Proposed Resolution No. 537 on Committee Report No. 36 as reported out by the Committee on Preamble, National Territory, and Declaration of Principles.

THE PRESIDENT. Is there any objection that we continue the consideration of the proposed resolution to incorporate in the new Constitution an Article on the Declaration of Principles? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Preamble, National Territory, and Declaration of Principles are requested to occupy the front table.

Is there any suggested procedure we will follow this morning, Mr. Floor Leader?

MR. RAMA. Yes, Madam President. We are going to have speakers on the military bases question as was agreed upon yesterday. And after all the speeches are finished, we will proceed to the period of interpellations.

So, in the meantime, we will call on the Members who would like to speak on the issue.

I ask that Commissioner Guingona be recognized.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Madam President.

Madam President, I have expressed my views on the military bases issue in a six-page paper, copies of which were distributed to the honorable Members of this Commission. I shall, therefore, not impose on the time of my esteemed colleagues by reading it, except the last page thereof. But I respectfully request the Commission's permission to submit a copy of this paper to the Secretary-General so that the contents thereof which would not have been read by me may be included in the Journal of our proceedings for today.*

Before reading the last page of my paper, Madam President, I would like to seek your indulgence to express some random thoughts on the military bases issue. I fully agree with the view expressed by Commissioner Rodrigo that there should be no mention of military bases in the Constitution either for the retention or the removal thereof.

I respectfully submit that there is a need for a searching and in-depth study of all aspects of this issue – military, political, legal, social, economic and moral – which this Commission has not and could not undertake. First, because we could not obtain all the data needed, including classified data, our efforts were also restricted by the sheer volume of our work. We have so many areas of concern – human rights, social justice, national economy and patrimony, the form and structure of government, the functions of officials, education and many others – and also, there is the time constraint.

I, therefore, contend that studies should be left to the executive and, after such studies, a decision could be made by the executive and the Congress, and, if desired, by the people through a referendum.

May I invite attention to the statement of President Corazon Aquino, which was published in the papers, where she categorically stated that she shall not allow herself to be dictated upon by the United States.

Our stand, therefore, Madam President, is that we would have no objection if, after the searching and in-depth study which we have suggested, the decision is reached to remove the bases in 1991.

On the other hand, if the decision is to allow the continuance of the bases, then our stand is that we should demand terms as favorable, if not more so, as the terms of agreement with Spain, Great Britain, Italy, Malaysia, Turkey and Greece and provide for a short-term rental period of five years renewable every five years thereafter.

Madam President, I would like to start my first reaction in answer to the last statement made by a member of the sponsoring committee, Commissioner Rosario Braid, who spoke about the social evils spawned by the presence of the military bases in the Cities of Angeles and Olongapo. May I say that I do not exculpate the members of the American Armed Forces involved. But it has been said, Madam President, that it takes two to tango. By this, I have no intention of casting the blame on our Filipino women who service these servicemen. I am sure that most, if not all, of them are unhappy about their occupation. But I would blame the local authorities, the law enforcement agents, for they have not only failed to enforce our laws against prostitution and drug abuse; instead, quite a number of city officials and military men have, in fact, encouraged and protected the centers of these vices. I believe that if our law enforcement agents would only perform their duties faithfully and diligently, we may not be able to eradicate but we would certainly minimize considerably the vices complained of in the paper read by Commissioner Rosario Braid. Besides, prostitution and drug abuse have proliferated in other places of our country where there are no bases.

Madam President, I would like to make an assertion that in the matter of military bases issue, all the Commissioners, whether they be pro-bases or anti-bases, are concerned with the welfare and security of our people not only of this generation but of future generations, our children and our children's children, for an overwhelming majority of us do have children. But in assessing the same issue, we look at it from different viewpoints, like two persons looking at the same coin from two sides – one sees tails, the other, heads.

I would like to submit that the almost 50 years of American relationship since the turn of the century have been cordial and satisfactory. It is true that we have had misunderstandings at times, but even right here in our Commission, Madam President, we too have had our misunderstandings. I submit that America has been fair with us, and may I cite two examples.

The United States has shown flexibility in dealing with us in the matter of the military bases. In fact, since 1947, there have been several reviews or revisions of the terms of the agreement, and about 40 amendments to the original agreement have been agreed upon, the most significant of which was the Serrano-Bohlen Agreement of 1959 which became effective in 1966, reducing the 99-year lease up to year 2046 to 25 years. The United

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*See Appendix

States could have insisted on the original term as to its period, but it did not.

Again, after the Japanese occupied the Philippines, America, through General MacArthur, promised to return and America did return in 1945 and liberated us from the Japanese occupation forces. One year thereafter, America granted us our independence.

We appreciate, Madam President, the feeling of our fellow Filipinos who want to break away from an alliance with the United States. They feel that as members of such an alliance, they are certain to be fought over. As neutrals they might have a chance of staying out of the havoc. Our contention is that the alliance would be useful to our country in case of conventional war. In case of a nuclear war, the devastation would be so pervasive that it would affect all States, whether superpower or not, aligned or nonaligned or whether they have bases or not. We contend that what will prevent the outbreak of a nuclear war is the maintenance of a balance of power. And when one speaks of the balance of power, one should realize that there are many factors to be considered. One of the most vital factors, Madam President, is ideological identity or similarity of value systems. There is no doubt that we share the same value systems with the United States, which is a democratic country.

In the very first section proposed by Committee Report No. 36, the Philippines is described as a democratic State. We do not say, "Thank God, the Philippines is a communist state." This section affirms the fact that we firmly believe in democracy, both as a form of government and as a way of life – an ideology which is categorically and unequivocably rejected by the communists.

The idea of neutrality or neutralism, insofar as the cold war is concerned, disregards the manifest hostility of communists, particularly Russia, to everything noncommunist. May I quote, Madam President, Walter Lippmann in his book, entitled: *International Politics, US Foreign Policy: Shield of the Republic:*

> Since the first concern of the makers of foreign policy in a sovereign national state must be to achieve the greatest possible security, their object must be to avoid isolation by becoming members of an adequate combination. To be one against the many is the danger; to be among the many against the one is security.

With regard to the matter of sovereignty, Madam President, I respectfully submit that there is no loss of sovereignty as a result of the existence of military bases in our country, occupation of which bases by the United States was effected with our expressed consent pursuant to the Bases Agreement of 1947, in the same way that there is no loss of sovereignty when we permit the exercise of the right of extraterritoriality and exterritoriality by reason of comity, treaty or convention. Madam President, I know of no country, including Russia, that has ever contended that Great Britain is a nonsovereign country, but the fact is that there are military bases in Great Britain.

As to the unfavorable terms, I shall not repeat what I have said earlier, except to invite the attention of the honorable Commissioners to the fact that the military bases agreement was executed or agreed upon about 40 years ago. And if I am not mistaken, it was the first bases agreement after the war. So we could expect that the terms would not be as favorable as the terms of the later bases agreements. Besides, when we talk of unfavorable terms, we might look at the same subject matter with different perceptions. For example, there are those who say we receive less than Spain because Spain receives $412 million a year while the Philippines receives only $180 million a year. But the fact is that out of this $412 million, only $15 million is grants; whereas, our country is given $120 million as grants. The rest are given to Spain as credits or long-term concessionary loans which have to be repaid.

Madam President, I shall now read the last page of my prepared paper with your kind indulgence.

> Our contention is that the issue regarding the military bases is more than just an issue of sovereignty or the risk of a nuclear attack or economic benefits for us. Fundamentally, the issue really is a choice between democracy or communism. People, like the late martyred Chief Justice Jose Abad Santos and many other war heroes, had learned to like the American institutions and foundations and while they aspired for Philippine independence, they, nevertheless, as incisive realists, supported enlightened cooperation with America. We know that in the struggle between the two superpowers, which is a struggle between democracy and communism, it is obvious which side we should support in the national interest of the Philippines. Having learned the lessons of democracy, we now take democracy for granted as if there would be no end to it notwithstanding the danger brought about by the presence of powerful countries near us with ideologies diametrically opposed to our democratic way of life. There is no denying the fact that there is a cold war between the two superpowers, and the balance of power must not be tilted in favor of the Russians. The dispute would be of little or no concern to us if the conflicting superpowers were both democracies. Unfortunately, this is not so. The need for maintaining a balance of power is a geopolitical reality which dates back to the period before Christ when the two city-states, Athens and Sparta, dominated the Greek peninsula. If we choose, as we do choose, democracy, it is our duty not to imperil or weaken the balance of power that presently prevails. By doing so, we are not protecting America; we are protecting ourselves. We have seen the dangers posed by Russia. The invasion of Afghanistan, I am sure, is still fresh in our minds. There is no doubt about the Soviet's growing military capability in this part of the world or the strength of the Soviet fleet. Its growing air force and the continued deployment of SS-20 intermediate range ballistic missiles in the Far East within reach of the Philippines are all causes for concern to all of us. Can those who would want immediate dismantling of the bases assure us that if we succeed in doing this, the Soviets will reduce their arms strength and remove all the missiles that they have deployed and are continuing to deploy in our part of the world?
>
> Justice John Clarke of the U.S. Supreme Court, in the case of *Milwaukee v. Burleson,* 255 U.S. 407, 414, has wisely said: "The

Constitution was adopted to preserve our government." In the light of the above discussion, we would certainly not be preserving our government by including in our proposed Constitution what has been described as an "immutable decision" to dismantle the bases immediately or in 1991.

Madam President, if the discussion this morning is limited to military bases, I shall end my talk. But if we are supposed to cover other areas which were taken up in Sections 1, 2 and 3, I have a couple more items to take up with the committee. In other words, Madam President, I would end my speech but I would reserve the right to react with regard to the provisions of Sections 2 and 3 regarding neutrality and Section 4 regarding the adoption of a nuclear-free country policy, when the time for discussions comes.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Rustico de los Reyes be recognized.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. Madam President, after hearing the brilliant dissertations of the Commissioners who spoke before me, I am almost tempted not to speak anymore because most of the things I intend to say were practically covered in their speeches. Still, I must, if only to articulate this issue from the viewpont of a common man. Moreover, I happen to be the author of Proposed Resolution No. 216 which proposes to declare our country as nuclear free. This appears to be the basis of Section 4 of the proposed article but which, for one reason or another, the committee failed to acknowledge in its report.

The arguments given in support of the positions of the contending proponents could give the fainthearted nightmares. If it is true that the presence of military bases in our country would make us inevitable targets of nuclear attack or counterattack by an enemy of the United States, there is only one power capable of doing that, and that is Russia, to call a spade a spade. Only the Soviet Union would have the nuclear capability, qualitatively and quantitatively, to lock horns with the United States. And what would they be fighting for? In whatever way they disguise their respective reasons, I submit that it would be for world supremacy and the dominance of the ideologies they espouse. One view that deserves serious consideration is that as long as the balance of terror, some call it balance of power, between the United States and the Soviet Union stays substantially equal, there is no reason to fear a nuclear attack from Russia. It is further asserted that the military bases are needed as a defense from the subversion that comes from within. Rightly or wrongly, there are great segments of our people who believe that as long as the United States military bases are in the Philippines, the subversives cannot hope to overrun this country. All these give us cause to ponder: Are we not being presumptuous to think that 48 appointive Commissioners, who were given barely three months to draft a charter, should decide this life-and-death issue for 55 million Filipinos? Madam President, I respectfully submit that this Commission, despite the brilliance, dedication, patriotism or nationalism of its Members, does not have the sufficiency of time nor the expertise of foreign policy makers to provide for a constitutional provision which, in effect, will render our foreign policy rigid, inflexible or straightjacketed.

In our deliberations today and yesterday, several options have emerged: 1) dismantle the bases immediately; 2) call for a special plebiscite on whether or not they should continue; and 3) allow the amended 1947 Military Bases Agreement to run its full term up to September 16, 1991 and either adopt a permanent policy against military bases in the country or renegotiate entirely new mutual defense and bases treaties with the United States. All these options have strong arguments to back them up.

Immediate dismantling, according to foreign and economic experts, would bring about grave economic, social and political repercussions that could permanently doom current Philippine efforts towards national economic recovery. In fact, nobody can deny that our country is in such financial straits that, precisely, we are trying to attract investments to boost our economy. Do we think that investors would invest in a country that unilaterally abrogates an existing agreement with another country?

The diverse views simply show that at this point in time, we are in no position to make a definite decision on the bases, much less write down that stand in the Constitution for the simple reason that we lack thorough study and preparation aside from the fact that in practice, this issue is usually left to the decision of the leadership.

Let us take, for example, the argument that we would likely be the target in case of a nuclear war. It is but logical to assume that two superpowers at war with each other will concentrate their explosion of their very expensive nuclear bombs or missiles in the territory of their principal enemies because that is where the seat of power is located. The people that can exercise the authority to surrender are in their country, not in some distant Pacific Islands. A warring superpower can blow a military base in a distant foreign land to complete destruction and, yet, that will not lead to capitulation or surrender.

Even if Russia were to kill the Filipinos to the last man, this will not bring America to its knees as long as the American mainland and its people are still substantially intact. And, conversely, even if the Americans were to kill all the Vietnamese to the last man, this will not bring the Soviet Union to its knees as long as the Russian mainland and its people are still substantially intact. So, why should Russia expend nuclear missiles in Philippine territory to kill, say, one or two million Filipinos, when it could drop them in America and kill one or two million Americans? Let us bear in mind that England and France also possess nuclear weapons of their own. These countries fought with America or, more appropriately, America fought with these countries against the Axis powers in World War II, and they were allies in World War I. Would it not be more compelling if Russia wasted British and French lives than Filipino lives? After all, would it be possible to have a nuclear war between America and Russia without bringing in the other countries with nuclear weapons of their own? I am afraid not, because if Russia and America wasted each other exclusively, it would mean the downfall of both of them and the emergence of new superpowers. I cannot bring myself to believe that Russia's and America's respective strategies would allow these self-defeating miscalculations.

Last August 14, 1986, Mr. Alexi Drokov and Dr. Victor Gochakov, members of the Russian Praesidium, who were here on a visit stated that Russia cannot assure that it will not attack the Philippines because of the presence of American bases. We can see here the start of Russian subtle psychopolitical campaign to persuade the Filipinos to clamor for the removal of the American bases in the Philippines. We have to keep in mind that Russia cannot sincerely wish us well at this stage. It cannot and will not help in the stabilization and progress of a republican or democratic country, although it may go through the motion of trying to help. Its track record in Vietnam, Cuba, Afghanistan, Kampuchea, Laos and several South American and African countries more than prove this. Messrs. Drokov and Gochakov know only too well that without the American bases in the Philippines, we cannot hope to attract substantial foreign investments in our country, especially the medium- and long-range kind of foreign investments. America, for diplomatic reasons, of course, will not officially articulate this. But how we Filipinos stand on the issue of American military bases in this country will definitely be one of the crucial factors in the decision of foreign investors whether or not to invest in the Philippines. Russia knows that the military bases agreement between our country and America ends in 1991 and once the American bases are out, the Philippines would be easy picking thereafter. Expect the huge inflow of Russian hardwares and frontline technical consultants for the final phase of the communist master plan in the Philippines. We will be another Cuba and the United States bases will be another Cam Ranh Bay.

Logic tells us, therefore, that the Philippines is not a nuclear missile target. But this does not mean that we are not targeted for conquest by Russia through its surrogates. Anyone who has observed the intrusion of communism all over the world knows that our country, like the other countries of the free world, is earmarked for communist takeover, the Fidel Castro way or the Vietcong way. We should, therefore, address the question of U.S. military bases upon this consideration and not on a nuclear attack of the Philippines.

Our current pressure is the continued attacks from within by subversive forces and our people, most of them anyway, do think that should these attacks reach a critical point, that point that would easily tilt the balance of dominance in favor of the subversives, then, secretly or openly, the resources of the United States military bases in our country will be placed at the disposal of the Philippine government. Our people who adhere to this belief further support this by their assumption that U.S. military bases in a communist country are just not possible and are completely irreconcilable.

The unspoken fear of our silent majority is the terror that follows or accompanies the "socialist transformation" with the communist takeover of a defeated democratic country. More often than not, it is "liquidation" rather than "transformation." And so there you are, they think the U.S. military bases would be the last bastion of democracy in the Philippines. Out of respect for them, we should not just isolate them from the military bases issue. Let us avoid writing the abolition of the military bases in the new Constitution so that should it be necessary, the duly elected leadership, not this appointive Commission, may refer the issue directly to the people.

A seasoned diplomat and statesman gave the following suggestion in answer to the question of the best diplomatic approach to international issues:

> I suggest that it is what we might call the strategic approach to consider various courses of action from the point of view of their bearing upon major objective.

And now I ask: How can we avail ourselves of this strategic approach if we straightjacket our foreign policy in no less than our Constitution?

The declaration of our country as nuclear-free, however, is quite undebatable. With or without the bases, no Filipino in his right senses would want his country to be used as a dumping place for stockpiling nuclear weapons. That is another matter. And this was already explained by Commissioner Azcuna. Let me just add that in stating this as a principle in our Constitution which is not a foreign policy matter in the category of neutrality, we are manifesting to the international community of nations, especially the superpowers, our disgust, our sentiment against their deadly arms race.

In an article by C.P. Snow entitled the "Risk of Disaster or a Certainty," reprinted in New York Times, August 17, 1981, he predicted and I quote:

> We are faced with an either/or situation and we haven't much time. The "either" is acceptance of a restriction of nuclear armaments. The "or" is not a risk but a certainty. It is this: There is no agreement on tests. The nuclear arms race between the United States and the Soviet Union not only continues but accelerates. Other countries join in. Within, at most, six years, China and six other states will

> have a stock of nuclear bombs. Within, at the most, ten years, some of these bombs are going to go off . . . That is a certainty.

This statement was published by the Harvard Nuclear Study Group.

It is quite clear that an absolute vision of the nuclear future exists today. This vision is becoming more widespread and counsels that a nuclear holocaust is inevitable unless complete unclear disarmament is achieved. This prediction is not of world-enduring efforts to achieve security but rather an "either/or" future: either complete success or complete failure; either global peace and disarmament or nuclear holocaust. And so, even if the Philippines is a small nation or a small voice in the wilderness, let this provision of Section 4, declaring our country as a nuclear-free country, be a reminder to the superpowers that we do not need their nuclear weapons in any part of our territory, with or without the bases.

As Jonathan Schell, in his article on "The Fate of Earth" said, and I quote again:

> If we are honest with ourselves, we have to admit that unless we rid ourselves of our nuclear arsenals, a holocaust not only might occur but will occur, if not today, then tomorrow; if not this year, then the next. We have come to live on borrowed time; every year of continued human life on earth is a borrowed year; everyday a borrowed day.

Thank you, Madam President.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

Will the Gentleman please yield to a few questions?

MR. RAMA. Madam President, the interpellations, as we have agreed, will come later.

THE PRESIDENT. Commissioner Nolledo, we agreed that we will have the major speeches and then we will have the interpellations after this.

MR. NOLLEDO. No, because I was thinking that interpellations will be directed to the members of the committee or to the sponsors.

THE PRESIDENT. And also to those who have spoken.

MR. NOLLEDO. Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Villacorta be recognized.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, I would like to strongly defend the inclusion of the issue of military bases in the Constitution. Foreign affairs and sovereignty are fundamental concerns that must be resolved in the basic law of the land. If the argument is that sensitive concerns must be left to the government because we are merely appointed, then by the same token, this Commission should not mandate anything about equally sensitive aspects of national life, such as the national economy, bill of rights, education and other areas which our Commission has concerned itself with.

Madam President, we cannot shirk our responsibility and forego this golden opportunity to restore the sovereignty of our nation. Leaving the option to our government is actually giving no option to the government because, prostrate as we are in the midst of an economic crisis, our government will not be in a position even by 1988 or 1991 to renegotiate for better terms, much less for the abrogation of the iniquitous bases agreement.

Hence, we feel that the abrogation of the U.S. military bases and the declaration of a neutral, nonaligned and nuclear-free policy have a place in our Constitution. Even if this alone is what our fundamental law provides, we would have done a great service to our long-suffering people. For as long as the United States has bases in our country, that superpower will always be intervening in our domestic affairs; the U.S. will always ensure that it dominates our economy, our culture, our educational system. Because its primordial interest in the Philippines is the maintenance of its bases, the United States will always want to guarantee that the political configuration and economic directions in our country, including this Constitution, are under its effective control and manipulation. Thus explains why our Big Brother is watching over us here, everyday without miss, to monitor our every thought and action, and I acknowledge his honorable presence.

It is time, therefore, Madam President, to liberate our country from the foreign element, the parasite, the leech, that bleeds our country, that arrests our national growth and development. Let this Constitution, which is supposed to embody the dreams, the aspirations of the Filipino people, terminate once and for all our international servitude. We can even unilaterally abrogate the agreement on the basis of *clausula rebus sic stantibus,* the Roman law principle that allows a nation to withdraw from its treaty obligations if the circumstances under which the treaty was signed have substantially changed.

On this matter, Madam President, I would like to quote from a distinguished author of the book *Principles of Public International Law,* Dr. Ian Brownley, Fellow of Oxford University, page 498:

The rule of law has been expressed by the International Commission in Article 44, paragraph 2, as follows:

> "When a fundamental change has occurred with regard to a fact or situation existing at the time when the treaty was entered into, it may be invoked as a ground for terminating or withdrawing from the treaty if: (a) the existence of that fact or situation constituted an essential basis of the consent of the parties to that treaty, and (b) the effect of the change is to transform in an essential respect the character of the obligations undertaken in that treaty."

And finally, he proceeds in stating:

> The majority of modern writers accept the doctrine of *"rebus sic stantibus"* which is reflected in this provision as in municipal systems; so in international law, it is recognized. The changes frustrating the object of an agreement and apart from actual impossibility may justify its termination.

Madam President, the conditions under which the military bases agreement was signed have substantially changed. The military bases agreement was forced on our people when we were a U.S. colony. It was also at a time when there were no nuclear weapons yet. Madam President, my colleagues in this Commission who love their country, we are supposed to be a sovereign and independent nation and in this Constitution, we assert our right to self-determination, independence and sovereignty. Moreover, in these bases that infringe on our sovereignty, it is evident that there are nuclear weapons, even if the United States refuses to either confirm or deny it, because why would a superpower waste millions of dollars every month in maintaining its biggest bases outside its territory if these strategic bases do not have nuclear weapons? These weapons pose a direct and real threat to our survival and safety as a people. They attract nuclear as well as conventional attacks from the adversaries of the United States.

Common sense alone should convince us that the Soviets or any superpower does not aim their missiles at random targets around the world. They aim them at targets that play a major military role on behalf of the Soviet Union's major adversary, the United States. According to U.S. military planners themselves, Soviet SS-20s, which are intermediate-range, nuclear-equipped missiles located in Soviet Asia, are aimed at South Korea, Japan and the Philippines, particularly at U.S. military bases in these countries. Notice that these missiles are not aimed at Singapore, Burma or Thailand. I repeat – the Soviet Union, like the United States, does not just aim their missiles at random population centers. They aim them at military installations that are likely to prove dangerous to them in any contest that might take place between Moscow and Washington.

I would like to quote from a publication of the U.S. Information Service published this year, 1986. It is entitled: "Background on the Bases," pages 10 to 11:

> The U.S. facility at Subic Bay is the primary port claiming area and logistic support base for the U.S. Seventh Fleet which operates in the Western Pacific and the Indian Ocean. It contains the major supply depot for the fleet; serves as a crucial communication link for U.S. naval forces in the region; offers ship repair capabilities, second to none in the Pacific; operates an airfield for the Seventh Fleet's carriers striking force; and provides training in all phases of naval warfare for American and Philippine forces.
>
> Clark Air Base hosts the headquarters of the U.S. 13th Airforce. Clark facilities serve as a staging point for strategic airlifts in the Indian Ocean, including the island of Diego Garcia; permit constant surveillance of the choke points, "the Malacca, Sunda, Lombok Straits"; can handle large-scale aircraft deployments from the U.S. in case of emergency; maintain the program of air combat readiness; and provide training and upgrading of aircrews from the United States, the Philippines, and other friendly countries.

It is no wonder, Madam President, because of this extremely powerful capability of the U.S. bases, that a Soviet Diplomat Alexei Drugov, head of the four mission of the Afro-Asian Solidarity Committee of the Soviet Union that visited the Philippines said that the Philippines will not be spared in the event of a global war among the world superpowers because countries keeping weapons would be potential targets. This was provided in the set of clippings that was provided the Commission by the honorable Commissioner Crispino de Castro. He further said that countries with foreign military forces will surely be targeted during a military or nuclear war. He added that military bases all over the world, regardless of which nation runs them, do not add to the security of a particular country but rather pose as baits for attack. In the case of the Philippines, Alexei Drugov said that the Soviet Union can never be sure of the presence of nuclear arms here as the United States neither confirms nor denies their existence.

Moreover, Madam President, the dangers of a nuclear accident are ever present. If the Bataan nuclear plant were mothballed because its safety could not be assured, why could we not foresee the perils of a national holocaust that may be triggered off by accidents and computer errors within these military bases?

Just to give us an idea of the nightmare that follows a nuclear accident, may I just read from *Time Magazine* issue of May 12 about the consequences of the Chernobyl accident.

> At distances of perhaps three to four miles, victims stood a 50-50 chance of surviving though not without bone-marrow and gastro-intestinal tract damage. People living five to seven miles from the accident could experience nausea and other symptoms but would be unlikely to die. Smaller amounts of radiation within a range of 60 miles from the site would result in significantly increased deaths from leukemia and other forms of cancer during the next 30 years. People living 200 miles or more from the accident would run much smaller risks.
>
> . . . up to 60 square miles of Soviet farmland is likely to remain severely contaminated for decades, unless steps are

taken to remove the tainted topsoil. Reason: Cesium 137 and strontium 90, two radioactive particles spewed by the blaze, decay very slowly. It would take decades for the ground to be free of them.

If we are horrified by the terrible consequences of an accident in a nuclear plant which is mainly used for peaceful purposes,why can we not imagine and why can we not accept the fact that consequences will be much worse in case of a nuclear accident inside military bases? As a matter of fact there was really an accident involving two ships – a Japanese ship and another ship, I was not sure whether it was a Filipino ship – about five years ago. Fortunately, the Japanese ship did not carry any nuclear weapon but the accident extensively polluted the China Sea. Then there are the social ills and the diseases that are widespread in the communities surrounding the bases. Prostitution, juvenile delinquency, drug abuse, child exploitation and the ever-increasing incidence of venereal diseases, particularly AIDS – and all these were extensively discussed by one of the witnesses in our public hearings, Father Cullen, a Columban priest stationed in Olongapo. Are these not enough reasons to convince us that whatever mercenary uses the bases rentals bring do not compensate for the irreparable, social and moral costs of these bases?

Yesterday morning, Madam President, Commissioner Bacani in his sermon referred to the value of perceptions in making decisions. He spoke of the experiment in which a group was shown a picture of a young woman, while another group was shown a photo of an old woman. Then a third photo of a woman with blurred features was flashed to both groups. What each group saw reflected the picture that it saw earlier. Proof that our mental and decision-making processes are conditioned by our personal experiences.

Commissioner Bacani warns us against illusions, particularly illusions that are buttressed by vested self-interest and parochial premises based on our limited experiences. Let us listen to arguments. Let us listen, please, to facts. Let us not be moved by our emotions or block affiliations. We all love Americans, but we love our countrymen more.

My dear colleagues in the Commission, the United States that our people thought was their liberator, first from the Spanish and later from the Japanese, is not the *Deus ex machina* that it has always been believed to be. We are a young nation and are, therefore, inexperienced in the ways of the cold realities of international politics. An axiom in the relations among nations as taught by my American professors is: "There are no permanent friends nor permanent enemies, only permanent interests."

Let us remember, my dear colleagues, that the United States will not always be an ally. At the height of the Sabah controversy, the United States took the side of a closer ally of hers, Great Britain, which was then supporting Malaysia. There were even reports that British warplanes refueled right inside our national territory at Clark Air Field.

In closing, Madam President, I join many of our colleagues in this Commission in reiterating, in pleading that it is time for us, especially in this Commission, to transcend our personal friendship with the American people. Who among us have no personal sentimental ties with individual Americans? The mandate that we were given, however, by the Filipino people and that oath that we took dictate that we give precedence to the interest of the Philippines, first and foremost.

Ibig kong basahin ang napakagandang tula ng aking hinahangaang idolo, si Senador Francisco "Soc" Rodrigo, "Sanhi ng Pagka-Alipin," page 311 ng kanyang aklat:

> Ano ba ang sanhi ng pang-aalipin –
> Ang karahasan ba ng nang-aalipin
> O ang karuwagan ng inaalipin?
> Ang tanong na ito ay ating sagutin
> Sa ating sariling isip at damdamin;
> At minsang nasagot, atin nang sikaping
> Ang taling kadena'y pilit na lagutin!

Sinabi pa ng ating minamahal na Commissioner:

> Ang itinuturing kong mahalagang bunga ng katatapos na halala't kampanya ay yaong sumipot na bagong kumpiyansa nitong ating bayan sa sariling puwersa. Sa puwersa ng bayan kapagka gising na at naninindigan at nakikibaka.

Sinabi niya ito upang libakin ang mga kolonyal na mga kaibigan niya.

> Ang nais mo, Inang Bansang paraiso ng dayuhan
> Nguni't mistulang impiyerno ng likas na mamamayan;
> Ang hangad ko'y Inang Bayang katulad ay inang tunay –
> Una muna'y mga anak, saka lamang kapitbahay.
>
> Ang nais mo'y Inang Bansang, matanghal lang bilang bansa,
> Ay di baleng mamamaya'y madayukdok at makuba;
> Ang hangad ko'y Inang Bayang ang adhika't unang nasa
> Ay makitang bawa't anak ay payapa't mariwasa.

At ito ang kahuli-hulihang tulang napakaganda na ibig kong basahin:

> Kung tunay mong iniibig itong ating Inang Bayan,
> Ikaw baga'y nakalaang manindiga't magsanggalang
> Pag mayroong manlulupig na sa baya'y pumapaslang,
> Yumuyurak sa minanang karangala't kalayaan?
>
> Sa harap ng sobrang pagsasamantala
> At pang-aabusong ating nakikita,
> Di sapat ang tayo'y magbuntong-hininga . . .
> Kailangang tumindig upang makibaka!

And lastly, because I always quote my dear admired Senator alongside biblical quotations, I would like to read from Chapter 14:10-12 of the Exodus:

> When the Israelites saw the king and his army marching against them, they were terrified and cried out to the Lord for help. They said to Moses, "Weren't there any graves in Egypt? Did you have to bring us out here in the desert to die? Look what you have done by bringing us out of

> Egypt. Didn't we tell you before we left that this would happen? We told you to leave us alone and let us go on being slaves of the Egyptians. It would be better to be slaves there than to die here in the desert."

Moses answered, and I could very well substitute Moses for Francisco "Soc" Rodrigo:

> Don't be afraid! Stand your ground and you will see what the Lord will do to save you today. You will never see these Egyptians again. The Lord will fight for you and all you have to do is to keep still.

Nagsusumamo kami. Tayo ay ibong lumaya na noong nakaraang Pebrero. Iwanan na natin ang hawla at huwag na tayong magmakaawang manatili sa loob ng hawla.

Mabuhay ang malayang Pilipinas!

MR. RAMA. Madam President, I ask that Commissioner Laurel be recognized.

THE PRESIDENT. Commissioner Laurel is recognized.

MR. LAUREL. Thank you, Madam President.

I shall be brief. It is said that the Constitution is the imprisonment of the past and the unfolding of the future. If we adopt the resolution under consideration, we shall be imprisoning not the past but the future.

The RP-US Bases Agreement will expire in 1991, five years from now. Between now and then, a great many things can happen. We may side with this country. We may side with that country. We may decide not to side with any country. We do not know what will happen five years from now. As the poet says, "Only the event will teach us in its hour."

I agree with Senator Rodrigo that taking a definite stance now is not only premature, it is also unwise. Adopting the proposed resolution will hamstring our decisions in the future. We shall voluntarily be confining ourselves in a legal straitjacket. By choosing our options now we foreclose all other options, and perhaps our future too.

At this stage of our history, we do not know what we shall and should decide when the RP-US Bases Agreement expires. The people may decide to dismantle the bases, and then again they may decide to continue them. We do not know. What I know is that we should not decide now what the people have a right to decide five years from now.

Katulad ng mga kababayan ng isang matandang katulad ko at mayroon pang mas matanda kaysa sa akin dito, hindi natin alam kung buhay pa tayo pagdating ng panahon. May nagsasabing kinakailangang ipagpatuloy ang bases; mayroon namang nagsasabing huwag. Kung pagdating ng tunay na panahong tayo ay dapat magbigay ng hatol, di ipagpatuloy ninyo kung kayo ay kontra; at ipagpatuloy ninyo ang inyong hatol kung kayo ay sang-ayon, pero hindi ngayon ang panahon.

One last word, and I am done. Let me counsel you also against what I once called the tyranny of labels. At ito sa palagay ko ay mahalaga. I notice that those who are in favor of the proposal are calling themselves nationalists and branding those against them as pro-Americans. I think this is unfair. In my case, my own paternal grandfather was a delegate to the Malolos Congress and he served in the Aguinaldo Cabinet once upon a time as Minister of the Interior. He died in an American concentration camp. My own father never set foot in any American base. I mention this little bit of history to disabuse the minds of those who find it convenient to categorize people as either pro or anti. Indeed, it is too simplistic to view things as either black or white, good or bad. It is wrong to go by labels. In fact, we are all nationalists, and as nationalists we are neither pro-American nor anti-American. We are, first and foremost, excluding all others, Filipinos, one and all.

Fellow Members of this Commission, let us not presume to vote for the future. Let the people decide for themselves when the issue is ripe for decision. Let us retain for them that necessary flexibility, the needed resiliency they will use when they decide what has to be done not now but much later. That is their right and not ours.

I shall, therefore, support our distinguished colleague, the Honorable Francisco "Soc" Rodrigo, when he moves for the noninclusion of the provisions under consideration.

Thank you.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Romulo be recognized.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Thank you, Madam President.

The purpose of my address today is to present my observations on Sections 3 and 4 to the committee for its consideration.

The issue, Madam President, is not whether we should adopt a foreign policy of neutrality but whether we should enshrine it in the Constitution. The main point I wish to make, therefore, is that neutrality does not belong to the Constitution because this is a mere policy consideration in the conduct of foreign affairs which must be susceptible to change. Consequently, not being an immutable principle, this matter is better left out of the Constitution.

The classic international law concept of "neutrality" is all but obsolete in today's circumstances and thus needs no elaboration. The current meaning given to neutrality is the political one of "nonalignment." So, Madam President, I would like to briefly trace the history of nonalignment to demonstrate my basic premise.

The idea of nonalignment was born as a result of the cold war between the United States and the Soviet Union. From the start, the concept had a chameleon-like quality. It was used to justify contrary intents and purposes. For example, Nasser advocated nonalignment for the United Arab Republic to reduce Western influence in the Middle East. He was, therefore, a pro-Soviet neutral. Yugoslavia, on the other hand, wanted to deter Soviet interference in its affairs. Hence, President Tito was a pro-West neutral. Cuba was undoubtedly a pro-Soviet neutral, while Ceylon and Iraq were pro-West in their nonalignment. To complicate matters, the bipolar cold war saw the rise of a third participant, China. The emergence of the People's Republic of China gave rise to a neutrality of the third kind – pro-China neutral. These were the small Southeast Asian states trying to forestall Chinese intervention by assuring her in the middle 50's that she was not being encircled by pro-West states.

I think I can best illustrate the point by an anecdote concerning the superior generals of the three orders who were supposedly taking their constitutional in the Via Venetto. On that day they decided to forego their favorite sport of deciding how many angels danced on the head of a needle and instead they argued the relative merits of their patron saints. They said that St. Francis was the champion of the poor or the "marginalized" as we would say today. St. Thomas Aquinas was the most brilliant theologian the Church has ever had. The Jesuit said: "But St. Ignatius de Loyola is the champion exemplar of the Church." As usual, the Jesuit being quick-witted said: "We cannot decide on this point. Let the good Lord do it. Let us go to the Basilica of St. Peter, pray before the altar and ask him to decide who of these three saints is the greatest." So they did and soon enough a note floated from above which stated:

> I am a neutral. I take no sides.
>
> Signed:
> Jesus Christ, S.J. (Society of Jesus)

So, ladies and gentlemen, the internal loyalty of the participants to their respective shades of nonalignment was consequently put into question. To outsiders at least, nonalignment seemed to be a cover for opportunism. When the United States said it would not assist in constructing the Aswan Dam, Egypt turned to Russia. So did India when an American congressman expressed reluctance to finance a public steel project. Neither nonaligned country, however, stopped accepting aid from either country. Indeed, from time to time, nonaligned countries like Indonesia, Ghana, India, Egypt and Yugoslavia have accepted American or Soviet military assistance.

Thus, after the Havana Summit in 1979, it was clear that the Nonaligned Movement was suffering from erosion of its credibility, integrity and moral stature. Burma, one of its founding members, pulled out. Obviously, referring to the way Cuba manipulated the conference to unseat the government of democratic Kampuchea, Burma pointed out that there were among its ranks those who do not wish to uphold the principles of the movement and who were "deliberately destroying the movement to gain their own grand designs." Hence by 1983, the standing of the Nonaligned Movement was such that Singapore, a member country, was constrained to say through its Foreign Minister, and I quote:

> I shall state my assessment of the Nonaligned Movement in three short sentences: Its past is one which we can be justly proud of. Its present condition, however, does it no credit. And finally, if it persists in its present course, its future will be one of shameful oblivion.

At its recently concluded meeting last week in Zimbabwe, Singapore and other members again complained that the majority of the Nonaligned Movement was sparing the Soviet Union, while castigating the United States for every conceivable crime they could imagine.

It is clear from the recital of its history that neutralism or nonalignment means everything but being truly neutral. Its practitioners adopted particular interpretations of nonalignment as a policy depending on how they perceive at any given time their national or regional interest, and this is how it should be. The only constant in today's world after all is change; and so, as it has already been said, nations have no permanent friends or permanent enemies, but only permanent interests. Therefore, it behooves us to refrain from inflexibility trying our foreign policy to a concept that is ambiguous, evolving and in current disrepute. Let us continue to follow a pragmatic approach in this matter.

Accordingly, it was appropriate for the Philippines to join the other ASEAN nations in declaring Southeast Asia a zone of peace, freedom and neutrality because we did so on the basis of a long-term goal for the entire region, and not just for a single country, much less for the Philippines alone. And it is a policy that we can withdraw at any time if the country's interests so dictate.

Mr. Francisco Tatad summarizes this very well when he said, and I quote:

> A statement banning military bases and proclaiming a policy of nonalignment is a statement of national policy which one administration may favor and another may reject. It is a purely political question which must be addressed by whichever party is in power, according to its program of government and how it interprets its mandate. To write that in the Constitution is to consecrate a permanent and inflexible solution to a dynamic question that is subject to volatile change.

We must bear in mind that the art of diplomacy is to move events carefully and shape them, whenever possible, so that a nation does not face an impossible choice.

Walter Lippmann has astutely observed that "in foreign relations, as in all other relations, a policy has been formed only when commitments and power have been brought into balance." Otherwise, we confine ourselves to proclaiming objectives that are not translated into concrete actions and specific results. We run the risk of demonstrating that we are impotent and reduced to mouthing empty phrases.

In some ways, the same considerations of flexibility and pragmatism must be taken into account when evaluating the idea of a nuclear-free Philippines. The following questions, therefore, are relevant in seeking answers to these issues:

1. By adopting a nuclear-free policy in the Constitution, do we not unnecessarily restrict our defense options?

2. Can we really insulate our country from the effects of a nuclear confrontation, whether limited or worldwide, among the superpowers on the basis of what we write in the Constitution?

3. Is not the use of nuclear arms solely dependent on the self-interest of the superpowers and, therefore, simply declaring ourselves to be nuclear-free will not prevent them from using atomic weapons on us when it suits them to do so?

4. In the event atomic weapons proliferate, especially among small nations, is it not possible that solely for the purpose of self-defense, and abhorrent as the thought may be, we may be forced to equip our armed forces with nuclear weapons?

5. Would not a nuclear-free policy be illusory unless countries in the region also join us in such a declaration and, more importantly, that together we have the means to enforce the declaration?

6. Since there are presently ongoing discussions between the governments of ASEAN regarding the precise position the region should take on the question of nuclear weapons, would not a unilateral declaration on our part be premature?

And to quote again Mr. Tatad, he said:

> No Filipino should relish these questions, but they need to be asked and answered before the government takes any demarche. As a self-respecting country, we must exert every effort to end our security dependence on the United States. This means ultimately doing away with the American presence in Clark and Subic, but no one has been able to demonstrate that this is the time to do it.

In closing, allow me to cite a University of the Philippines Report dated August 21, 1986 which states:

> All regions were against the inclusion in the Constitution of a provision on the military bases, neutrality and nuclear weapons issues.

According to the report the participants simply felt that these issues should be left to the political leadership in the executive and legislative branches.

Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Tan be recognized.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. Madam President, there has been extensive debate on the presence of military bases in our country. I have concurred with most of the reasons given against the presence of American military bases and nuclear arms, and I express my deep respect for the persons and for the opinions of those who hold a contrary view. The reasons I shall convey, however, may not be legal or scientific, neither will they be logical, critical or creative. They will not even be the result of sessions and conventions in which I have participated during the past five years as member of the Anti-Bases Coalition and Nuclear-Free Philippines, for figures can easily be cited, words of great men quoted, the law expounded and these altogether may not always be genuine, much less, able to bear the scrutiny of God. A moment sometimes comes in one's life when a word from Him can change the flow of a nation's life. One may fail to recognize it; he may also tragically escape from it. I pray that this Commission does not escape. I shall speak not from external authority but from the inner depths of my soul which we sometimes call conscience or the voice of God. I am a sister of the Good Shepherd. For more than two centuries, our specialization, as the layman may say, in 47 countries of the world, has been the morally deviant or morally deprived person or groups of persons. It is from this moral viewpoint that I weigh the presence of American military bases. Perhaps, enough has been said about probability or possibility. The Russians may kill us all; our President's hands may be tied; 45,000 Filipinos may lose their jobs; the balance of power may be dislodged, et cetera. To make decisions on the realm of speculation is for me to start from a position of weakness. As a woman, I would like to start from a position of strength which is reality and how to deal with it. Reality today is that because of the American military bases in Clark, Subic, John Hay, et cetera, thousands of our Filipino women have been lured into a life of prostitution. The bases have spawned dishonor, rape, exploitation, social disease in a magnitude far more monumental than Sodom and Gomorrah on which God rained fire as punishment.

We cannot look at this undisturbed for this is sin, societal sin. We cannot pretend that we do not see. A second reality is that the American bases, through nuclear testing, continually mangle the lives of island inhabitants. I shall not go through figures and examples. The American military bases, our so-called protectors, have used us to kill and bomb our Asian neighbors, the Vietnamese and the Koreans. This, to me, is murder. This is sin. I cannot call it otherwise.

When I look at the bases, I wonder why I am totally against their presence. I have no children or grandchildren to be concerned about, properties or position to keep; interest to protect; but the answer comes with clarity of mind and clarity of priorities: Asian before Americans, honor before money, others' lives before my own fears. The voice of conscience within confirms that the military bases have been an instrument of sin and evil for us Asians. I cannot side with evil. I must fight evil now, not later.

A long time ago, a marginalized man said:

> What does it profit a man if he gains the whole world but suffer the loss of his immortal soul? What does it profit us Filipinos if we gain the bases, have a better economy, so-called security, but lose in exchange the purity of our women and the lives of our Asian neighbors?

Perhaps the mistake I will make by voting against the presence of nuclear arms and military bases is that I have taken the words of Jesus Christ seriously.

Thank you.

THE PRESIDENT. Thank you.

MR. RAMA. Madam President, I ask that Commissioner Bengzon be recognized.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, since the fall of man, the world has been fraught with conflicts – conflicts in the animal kingdom, in the world of plants and among men and women. The world swirls amidst intrigues and greed between the powerful and the weak, the learned and the unlettered, a cycle seemingly eternal, interrupted only by streaks of volatile peace and God's miracle. Against this backdrop, we now focus on a small developing nation called Philippines–developing but gifted with natural resources, small indeed but irresistibly coveted. Philippines! a mere strip of land in the world, but my country, my own, for whom my blood would gladly gasp forth.

Filipinas!!! Petite though she may be, yet located by God in a place strategically desired by powers at great cost. What now must she do? Those of us who advocate charting Filipinas to a definite and almost irretrievable course and direction argue the following:

1. The presence of the U.S. military facilities or any other foreign military facility now or in the future violates the principle of neutrality.

2. The presence of U.S. military facilities in the Philippines makes the country an inevitable target of nuclear attack or counterattack by any enemy of the U.S. and there is no adequate defense against nuclear missiles. In fact, they argue that even if there were no nuclear weapons on the bases, they will make us prime targets of nuclear attack because their command, communications, storage, repair and other facilities are in the bases and because one of the main functions of the bases is projecting military force into both the Pacific Ocean and the Indian Ocean Regions – meaning, the Middle East, the hottest spot today, the area in which a superpower war is likely to start.

3. Nuclear war can start by deliberate design, human error or miscalculation, by equipment failure like computer breakdown. The country is unnecessarily exposed to the risk of annihilation, either through deliberate design or by accident.

4. The presence of the U.S. military facilities in the Philippine military bases contributes to the maldevelopment of the Philippine economy. They say that the bases exploit Filipino workers and resources. The U.S. pays Filipino workers in the bases only one-half of what it pays Korean workers, one-fourth of what it pays Japanese workers, one-eighth of what it pays U.S. workers doing the same kind of work with the same productivity. Yet, the U.S. Navy does 60 percent of all repair work on its Seventh Fleet in the Subic; and the U.S. Air Force repairs the types of jet engines all over the Western Pacific in Clark because Filipino labor is both cheap and efficient. Besides, military expenditures are inflationary in nature.

5. Huge tracts of land are kept unproductive. If the area occupied by the bases were converted to peaceful use by Filipino entrepreneurs, the contribution to our economic development would be both positive and greater in value than the wages the U.S. pays our workers and the local supply it buys.

6. The good Filipino values are destroyed in areas around military bases. The bases have caused widespread problems of smuggling, drug abuse and prostitution. Angeles City and Olongapo City and their surroundings have been converted into camp towns where American servicemen go for rest and recreation. Their recreation includes sex and drugs.

Againt these, however, Madam President, those who advocate the opposite view say the following:

1. The presence of U.S. facilities in the Philippine military bases deter rather than attract an attack. The evidence supports deterrence. The American military installations around the world are not a magnet because in the 40 years since the end of World War II, no country with U.S. bases and the U.S. mutual defense treaty has been attacked. On the other hand, countries without any bases, like Afghanistan and Cambodia, have been invaded and occupied by foreign powers.

3. The question of whether military bases constitute an infringement on national sovereignty really depends on the nature of the agreement. In other words, it depends upon us. We hold the ball, so to speak; we control the key. For there is the agreement of comity which is not considered an infringement on national sovereignty in the field of international relations.

Furthermore, are we to understand that Great Britain, Spain, Italy, Turkey, Japan, Malaysia and Singapore are not sovereign and independent countries, since all have foreign military forces permanently based in their countries under mutual defense agreements?

4. With regard to the social and moral issues associated with the bases, such as drug abuse and prostitution, these are clearly negative forces to be considered in analyzing the costs and benefits of the bases, and subject to negotiations. No one wishes to condone damaging or disruptive social behavior, but such problems are an unfortunate reality near any military base, not just American bases, which must – and I say must – be addressed by the various agencies of the government.

On the imbalance of the salary scale of the Filipino employees and their American counterparts, these are certainly subject to negotiations. On the conversion of these various bases into commercial and agricultural developments, this is easier said than done. We cannot compare ourselves to bases closed in the United States and in other parts of the world because the economic situation and business climate are not equal. There is prosperity in these other countries while we have an anemic economy in our country at the moment.

That being the case, Madam President, how sure are we then that such commercial, industrial or agricultural development projects will become viable? Again, there must be careful research and study before we can point and paint a rosy picture to our people.

But, Madam President, having said all these, I submit, however, that the true and real issue is not whether or not we should have these bases here, but should we, in this Commission, chart our country to a course of unparalleled inflexibility, or shall we allow the guardians of our nation, whom we ourselves elected, the ease and latitude of full trust and discretion?

Madam President, I submit that nothing, but nothing, should be stated in our Constitution that would foreclose any of our options now or in the future, and my reasons are the following:

1. While the draft provision as worded does not speak directly of the presence of U.S. bases on Philippine national territory, there is no doubt that it has specific reference to the abrogation of the Philippine-American military bases agreement.

This Commission should not legislate on a specific policy issue; one which is specific as to time, parties and place. The essential quality of perpetuity of the Constitution is negated by this specification. Such particularity binds succeeding generations of Filipinos who will have no leeway to interpret, construe and act within the provision to suit the needs and exigencies of and in their own time.

2. As a matter of pragmatism, the crucial question of terminating the military bases agreement warrants and deserves a separate and more comprehensive research, study and discussion.

The continuing public debate on the fate of the U.S. bases on Philippine soil must be resolved under and with the full consciousness and participation of all Filipinos.

We in this Commission were not elected but merely appointed. We neither have the time nor had the time nor the exact expertise to claim the full right to foreclose this subject matter by its perpetual burial in the Constitution. We should not present to the Filipino people a *fait accompli.*

3. In all democratic countries of the world, with the exception of a few, foreign policy direction is a prerogative of the executive branch of the government. The Chief Executive, in the person of the Prime Minister or the President, aided by the members of the Cabinet, determines the national interest vis-a-vis other countries' interests.

In the history of our nation, the executive department always determines our foreign policy. There is no reason, therefore, to depart from this tradition, considering that the presidency remains to be an elective position, and the President, therefore, is the representative of our people.

4. Foreign policy directions are determined always, but always, in the interest of the nation. Never in our history has the Philippines been placed in such an advantageous position. We should nurture and husband this advantage to derive the maximum benefits for all for it shall never come our way again.

Madam President, it is true that sovereignty and survival are not for lease nor for sale. But it is likewise true that they are not for giveaway through sheer neglect and false pride. For are we certain that if we remove the bases, we can fill the vacuum ourselves and truly defend our shores from external and internal aggression, solely relying on our own logistics and armaments?

Are we certain that we can at this point in time of our history defend democracy against the onslaught of opposite ideologies both militarily and economically? Or is it because we were able to survive World War II that we now think we can withstand the onslaught of such adverse forces?

Madam President, I submit that we are not in a definite position to decide all these now. That we are not possessed with the expertise, the time and much less all the needed data for an in-depth study to arrive at an intelligent and wise decision for the interest of our country and for the generations to come.

I further submit that even if we have formed our own respective opinions on the subject matter, even if we feel we have had enough research and study to formulate our own position, this is neither the time nor the forum to insist on our views for we know not what lies in the future. It would be foolhardy to second-guess the events that will shape the world, our region and our country by 1991. It would be sheer irresponsibility and a disservice of the highest caliber to our country if we were to tie down the hands of our future governments and future generations. For no matter how erudite, nay, clairvoyant, we may be, no one can predict with any scale of certitude what our strategic needs and requirements would be in 1988, 1991 or even much later.

Moreover, Madam President, we must likewise consider the interests of, and our relations with, our ASEAN neighbors, together with our interests when we weigh our circumstances that would lead us to make our decisions.

On this score, therefore, it would be totally unwise and against our national interests to lock ourselves in a direction that would bring us to a point of no return.

Finally, since the subject matter shall be embodied in a treaty and a treaty it must be, legislature will have to give its concurrence thereto.

I submit then that this Commission in all humility should refrain from charting the country to a course of unparalleled inflexibility. Let our power of persuasion be brought to bear at the proper time and at the proper forum upon the guardians of our country whom we have resoundingly elected and upon all the future trustees of this nation, after which, let us give them the latitude of full trust and discretion to steer this country to freedom and greatness.

It is for the very precise reason that the subject matter involves our survival and our sovereignty that we must allow ourselves the flexibility of time and decision; that we must trust in the patriotism and greatness of our elected leader.

I shall go back and end with my original opening: That nothing, but nothing, should be stated in the Constitution that would foreclose any of our options and flexibility.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Ople be recognized.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you, Madam President.

I would like to approach the issues contained in Section 3 and in Section 4 with profound humility, because these issues are not only momentous in their implications and ultimate significance for the Filipino people; they are also wrapped up in a tremendous complexity. Madam President, this debate has already been illuminating for me. I want to pay tribute to those who had spoken before me whatever side they took and I have been impressed by the strength of the convictions with which they put forward their respective arguments. We are faced with one or two choices in this proceedings: First, whether or not we should debate this question on its merits and submit it to the floor for a decision. Shall we abrogate the bases agreement by the Constitution certainly beyond 1991? Shall we strike to attain a status of neutrality in this region together with those states prepared to join us in such a decision? Shall we declare the Philippines a nuclear-free territory? The second choice before us is indicated by some of those who had spoken, especially Commissioner Francisco Rodrigo, and they have made the point that perhaps this is not the time to include these provisions – at least, Section 3 of the committee report – in the draft Constitution that we are here to frame on the ground that this will preempt the Philippine government. Now, there is a sense in which a constituent body, a special organ, is appointed to frame a constitution more or less within three months. We may be presumed to possess the competence to pass upon this issue. I am speaking of the legal competence of the Constitutional Commission but at the same time, beyond the technical boundaries of our competence. I think some of the previous speakers indicated that we would be exceeding our reach by deciding these issues now on the floor of the Constitutional Commission through Sections 3 and 4. I think this doubt rests not on the idea of our collective insufficiency but on a certain dutiful regard for the competence of the Philippine government itself to exercise its own judgment at the proper time, or in the words of the present head of the government, President Corazon Aquino, to keep the options of that government open until or beyond 1991.

Originally, I was inclined to call for a decision on the merits of these issues on the floor so that the will of the majority can decide on the issues and the merits instead of merely saying: "Why do we not take this out of the draft Constitution now and leave it to President Aquino and her government and, perhaps, to the Filipino people to decide these issues ultimately through a referendum?" I think that course is still open since we are merely engaged in a period of general debate, but I have been increasingly impressed by the points made by my colleagues who think that if we do act on these issues now and vote on them on the merits, we might be, regardless of the results and without intending to do so, pulling what military writers call a "preemptive strike" against our own government, and especially President Aquino, who happens to be for the moment the head of that government. The Constitution, of course, once ratified, is above a government and, therefore, it is able to command a government on what to do. But the Constitutional Commission, which we constitute here by a number of 47 persons, I do not think can elevate itself above a government.

I think we are also time-bound and, therefore, are obliged to take account of the realities in which this very Commission must function. Assuming that these issues are voted upon on their merits and there is a decision to approve Section 3, let us allow for this consequence first. Granted Section 3 is approved. Then what will be the implication? The draft Constitution will be submitted to the people and, of course, if the

Constitution is ratified, together with Section 3 of the report of the Committee on Preamble, National Territory, and Declaration of Principles, then the government will be under a mandate to terminate the bases agreement irrevocably and without recourse by 1991, or procedurally speaking, even way ahead of that. Second, the government immediately seeks to attain a status of neutrality – perhaps unilaterally – and, in the nature of neutrality, try to persuade all the powers in the region. Those powers would include the United States, the Soviet Union, China, Japan and Vietnam, so that all these powers will guarantee our neutrality. Without those guarantees, of course, a neutrality is essentially deceptive or it is an illusion. And if Section 4 is also approved by majority vote then, of course, that is a mandate to the government to prohibit immediately the stationing of any nuclear weapons on Philippine soil and depending on how this is construed to prohibit forever even the development of a nuclear power industry as a substitute for fossil fuel in our country.

On the other hand, if it is disapproved, then what is the consequence that follows? Since it is disapproved, then I do not think serious consequences for the country and for other countries will follow.

On the other hand, if we take this out of the Constitution, and we have been forwarned by Commissioners Rodrigo and Laurel that they will seek an amendment by deletion at the proper time, then there is no real engagement or no direct engagement of the issues. What will happen is that this will alert the nation that a great debate on these issues is about to take place – that all classes of society, all segments of the citizenry are invited to take part in that great national debate. In any case, the consequence also will be for President Aquino and the government of the Republic of the Philippines to face 1988 or 1989 when the five-year review of the existing bases agreement will take place with great confidence and equanimity.

Mind you, the meaning of leaving the options to President Aquino is precisely so that she can face the prospect of 1988 or 1989 and 1991 itself with the greatest confidence and equanimity. And why do I say that? I say that because I agree with previous speakers, especially Commissioner Garcia to whom we are indebted for a great historical narrative of how these bases agreement notoriously flout from the beginning of being sprung upon an unsuspecting nation beginning in 1944 with that Joint Resolution No. 93 of the U.S. Congress. When Quezon died, Osmeña assumed the Acting Presidency of the Commonwealth and he was literally coerced into consenting when the Commonwealth of the Philippines was still, in the words of Commissioner Garcia, a dependent state of the United States of America. Osmeña was literally coerced into agreeing to a treaty of general relations in 1946 arising from that Joint Resolution No. 93 of the U.S. Congress, according to which President Roxas agreed not only to preserve but to expand the existing military and naval bases and reservations of the United States in the Philippines. This was reaffirmed and further expanded in 1947 when the military bases agreement itself was consummated, and further developed in 1951 with the conclusion of the Mutual Defense Treaty between the Philippines and the United States. We were a nation economically and psychologically prostrate at that time, when very few buildings in Manila were left standing not because of enemy action but because of friendly action. When the Americans came to liberate Greater Manila, even Intramuros, the queen of all the historical shrines, was reduced to rubbles, and yet they had the effrontery at that time to demand that we change our Constitution, apart from consenting to keeping their bases and even expanding them, in order to grant parity rights to Americanism.

I remember as a high school student in my own hometown, I captained a debating team against the parity amendment, and the incumbent governor of my province then was the chairman of the board of judges and who was deeply loyal to Roxas. His decision of giving the victory to the opposite team was loudly booed in the plaza of Hagonoy, Bulacan at that time.

And so, my friends, there is no question that this is a fraud treaty. The crowning insult was when our own Senate ratified this treaty and the United States Senate did not even take cognizance of it. Up to now, this asymmetry continues. From the standpoint of Philippine law, this is a treaty ratified by the Philippine Senate; from the standpoint of the Americans, it is just an executive agreement. And that is the reason rentals have to be charged – they call these "aid" in their own official lexicon, and in an act of self-deception we try to call these "rentals" in our own official lexicon. It was their view that prevailed, and this $500 million to which we are now entitled as a result of the latest amendments in the bases agreement is actually aid, as far as they are concerned; rentals as far as we are concerned. But the American interpretation prevailed because this money is disbursed in the Philippines through the joint administration of the Philippine government and the USAID. If we are looking for the test of reality as to whether this is aid or rent, then we will be guided by that. If it is rent, then our government exclusively disburses it; if it is aid, then the U.S. government through the USAID participates in the decision-making.

My friends, that is precisely why I tend to favor the Rodrigo-Laurel approach, because if we do not put this Section 3 in the Constitution, if we leave the options to President Aquino and her government, then we are giving to this government the strongest political leverage that the Filipino people ever had relative to the United States since 1898. I remember the Treaty of Parish negotiations when Aguinaldo's ambassador, Felipe Agoncillo of Batangas, was humiliated by the conferees there. He was not even allowed to enter the room, and later on when he wanted to say a few words to a committee of the American Congress, he was barred from the proceedings because the Aguinaldo government was not recognized.

In the words of the American Declaration itself, there has been a long train of usurpations and abuses, and how do we correct all of these historic inequalities in Philippine-American relations if unilaterally, we now renounce the only meaningful bargaining leverage we have with them through this imminent deadline of 1991 for the bases agreement? It is a real bargaining power that history now puts in the hands of an otherwise effete, weak and almost defenseless Philippine government. Suddenly we are no longer weak, effete and helpless; we have 1991 – the greatest clout since 1898 that destiny has placed in the hands of a Philippine President.

I belong to a party other than those in power. Last night, I had a meeting with the central committee of my party and they said:

> You have the perfect opportunity to affect history now. Complete the embarrassment of President Aquino. Hasten the downfall of her government by swinging your vote to the other side.

I am a politician and I was very much impressed by these arguments last night. Commissioners Natividad and Maambong were there and the central committee wanted us to affect history, but with what result? They wanted us to vote for the approval of Section 3 but for not a very noble reason. They wanted us to help complete the political embarrassment of President Aquino, especially since she is going to America. And so I said, "It is not by such actions and maneuvers that we keep score."

We are putting our convictions ahead of political opportunity. We believe that this bargaining leverage of the Philippine government, available for the first time since the Philippine-American colonial relationship was created, should not be frittered away. It should not be thrown into the Manila Bay. It should be conserved. It should be developed. It should be wielded as a legitimate weapon at the proper time by this government in order to correct all the historic inequalities in Philippine-American relations, because without this weapon, how will we correct these?

My friends, I can already visualize this national debate that will shape up as a result of the initiative taken by this Commission to put the issues on bases neutrality and nuclear weapons on their agenda. They will debate on issues of national survival just like we have taken cognizance of them here. Survival for most of our people, unfortunately, is an oversimplified concept. They divide the wall between the communists and the democrats. This kind of oversimplification is, of course, very irritating for some of us because this is the cold war view of how the wall is divided – on one side are the angels; on the other side are the devils. But many of our people call it ignorance, lack of sophistication, or merely lagging behind in perception. That is how they look at this bases issue. They read into these views of national security which are terribly oversimplified.

Madam President, may I call the attention of my friends to the fact that in the revised program of the National Democratic Front, issued last December 1985, there was a statement that if a coalition government took over in the Philippines under a national democratic regime, they should not rule out negotiations on the American bases. This means that the NDF revised program entertains the possibility of negotiating on the future of the American bases, assuming that they are capable of holding more advanced political positions than some of us in this Commission. I see no reason why we should not leave the option to the Philippine government to make the decisions on these bases at the proper time. I say again that I can visualize the lines of the national debate that will be taking shape from the halls of this constituent body.

Another point is, what do we get out of these bases, I mean the economic and other returns versus the social costs? Commissioner Tan earlier eloquently said: "Niloloko talaga tayo rito sa kasunduang ito. Hindi na kailangang ulitin pa yaong mga data na pinag-usapan na rito."

I was in Washington during the last week of the Marcos regime as a special envoy. I was one of the major channels utilized by the Reagan administration to send those final messages to President Marcos on the eve of his fall. But do my colleagues know what the American officials told me uniformly? They said:

> You really are getting a pathetic return for all of these facilities. We look forward to a more aggressive position of the Philippine government concerning this.

I told them:

> On those occasions, the Filipino people will probably not consider renewing the Bases Agreement, unless there are palpable, significant decisive signs of genuine reciprocity. Japan, Taiwan and Korea utilized your technology and your markets in order to emancipate themselves from poverty, ignorance and disease.

Other than Japan, Taiwan and Korea have become economic miracles in our time, as though taunting the economic stagnation of the Philippines. I went on further to say:

> Many Filipinos will consider extending your bases for a very limited time, if they can see your technology, your markets and other mean of helping the Philippines liberate itself from mass poverty, ignorance and disease; if they can see that these are forthcoming and available, which is not to say that we are only interested in the economic prize.

But the reason there are 20,000 hostesses in Olongapo is not so much because of the bases. It is because of the bases and the mass poverty of our people. Poverty is the great enemy. I think in this Constitution we have created so many inspired provisions that can help our people accelerate their conquest of mass poverty, ignorance and disease, but it would be best if we can use that kind of technology, that kind of capital, that kind of market by means of which our own people, not through the arms of others, not through the crutches of others, but by their own strength and bootstraps, power, initiative and inspiration, can raise themselves to become a more prosperous nation. Prosperity and freedom generally have a correlation, Madam President. Democracy requires a certain measure of economic viability, a certain level of income, let us say, a certain standard of income per capita to support its great ideals of equality, liberty and honesty. Perhaps, many of our people in that forthcoming debate will see these options opening up before their eyes. I myself look forward to joining that great debate, probably starting with the ratification campaign for this Constitution. But, Madam President, I speak of Section 3.

In closing, may I just say, I support the position taken by Commissioners de los Reyes and Azcuna that Section 4 can stand apart from Section 3. We are prepared to support a statement of principle for a nuclear-free national territory of the Philippines. We are prepared to support a transitory provision that will make certain that the issues which we may not resolve on their merits here will be brought to the people at the proper time, so that they themselves, the Filipino people, will decide this historic and momentous issue of our national life.

Thank you very much, Madam President.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. ROMULO. I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, I rise to support the historical and lofty position taken by the committee on the bases issue; I oppose the motion to delete, authored by Commissioners Rodrigo and de Castro.

Madam President, after having deposed a much-hated dictator through people's power, after our traumatic experience with a tyrant, we are now in the process of redefining and reshaping the course of our lives. Part of this process of redefining our future is the writing of a new constitution which, hopefully, will bring about a new era of peace, freedom and independence in our land. It behooves all of us, Members of this Commission, that we consider the lessons we have acquired from the dark years of martial law and use these as guidelines for defining the Constitution we want.

Madam President, it is precisely these lessons that have moved the Commission to enshrine in the proposed Constitution specific provisions limiting the power of the Chief Executive and declaring a state of emergency and other provisions aimed at preventing the recurrence or emergence of another dictator. It is also these lessons that saw the birth of new human rights provisions, as well as provisions on social justice in the new Constitution.

Madam President, let us not forget that through the years of martial law, the U.S. bases were used and repeatedly used by the U.S. government as justification for open and wholesale support to the Marcos dictatorship. It was the dictatorship that saw the arrest and detention of thousands of Filipinos, that saw the arrest and detention of Commissioners Rama, Nolledo, Calderon, Rodrigo, and the death and martyrdom of Ninoy Aquino.

Madam President, in the four-year period following the imposition of martial law, the U.S. increased its military aid to the Marcos government. In the four-year period following the imposition of martial law, from 1973 to 1976, military aid to the Marcos regime totalled $166.3 million or 106 percent more than the total aid of $80.8 million in the preceding four-year period, 1969-1972. As of 1976, military aid averaged $40 million a year, in contrast to the pre-martial law average of approximately $20 million. Before the martial law period, the Philippines had no access to the U.S. foreign military sales credit program. In 1974, this program was opened to the Philippines and by 1976, the country's foreign military sales credits had reached $17 million. Arms sales by the United States to the Philippines in the four-year period of martial law was $72.1 million or nine times the value of its sales during the preceding 20-year period.

Madam President, on March 10, 1977, despite the much publicized Carter's Human Rights Crusade, Assistant Secretary of State for East Asian and Pacific Affairs, Richard Holbrooke, defended the military aid program to the Philippines on the following grounds:

> U.S. security and military facilities in the country continue to serve important national interest just as they did during World War II and during the war in Vietnam. They contribute significantly to the maintenance of stability in Southeast Asia and to American ability to keep vital sea-lanes open in the event of hostility. They contribute to America's stability to meet her obligations under the bilateral mutual defense pact with the Philippine government. And the Philippines regards military aid as a manifestation of continued U.S. interest in and commitment to the defense of that country and as an important factor in the American contribution to bilateral security relationship.

Holbrooke disclosed that:

> . . . the U.S. is troubled by human rights abuses in the Philippines and that such concern had been relayed to the Philippine government along with the U.S. view that there should be marked improvement in the situation.

But he also stressed that:

> Considering the Philippines' strategic importance, we do not believe that security or economic assistance should be reduced because of the human rights problem.

Madam President, the American defense strategy under Carter underscored the importance of the U.S. bases in the Philippines. This strategy merely echoed the basic elements of the Nixon doctrine similarly provided under the Ford's Pacific doctrine. It was tagged and called the "favored defense and deployment strategy" combined with "total force" concept in defense planning. Since Clark Air Base and Subic Bay Naval Base remain as essential links in the forward bases structure, the Carter administration, despite massive human rights violations in the Philippines, continued extensive military aid to the Marcos government.

Indeed, Madam President, as long as we harbor these bases in the Philippines, the U.S. shall always interfere in our internal affairs. President Eisenhower, in a press conference on November 5, 1958, said:

> Everything we do in the foreign field has for its basic purpose our national security, our national prosperity. We are not doing these things in the foreign field as a matter of altruism and charity. We are trying to keep an atmosphere in the world in which we can live, in which we can hope at least finally to get down some of our armament cost and where we can prosper.

In 1969, before the Symington subcommittee hearings, Senator Fulbright said:

> "We are not really there to protect the Philippines. We are there to serve our own purposes.

Madam President, not only are these bases an instrument for foreign intervention in our country. They constitute serious, unforgiveable, condemnable, sacrilegious violation of our national sovereignty and dignity as a people. The very size of their bases and military facilities in our country is a clear argument that we have surrendered a portion of our sovereignty and independence. Specific provisions of the agreement effectuate continued U.S. monopoly over the country's security arrangements, control Philippine foreign relations, ensure enlistment of Philippine manpower into U.S. armed forces, guarantee mobilization of U.S. military forces throughout the country and institute a region of extraterritoriality for U.S. military personnel to place them beyond the reach of Philippine courts.

Finally, Madam President, as mentioned before this august body, the foreign bases constitute a threat to our very survival as a people, because they are the major storage point for tactical nuclear weapons in the Western Pacific and because they are a target of nuclear attack. The threat of nuclear annihilation hangs like a sword above our heads. Madam President, a nuclear attack would mean the total destruction of Clark and Subic. Radioactive fallout would cause incurable injuries to present and future generations of Filipinos living within 100 to 200 kilometers from the center of the detonation. Depending on wind direction, Manila to Baguio could receive a radioactive fallout. Thousands would die immediately; more would suffer a lingering death. Thousands of hectares of land would become uninhabitable for generations.

Madam President, in the same way that we see the need for specific provisions aimed at preventing the rise of another dictatorship, provisions intended to protect academic freedom, arts and culture, the rights of teachers and students, our bitter experience of hosting foreign bases likewise compels us to enshrine in our fundamental law a specific provision banning foreign bases from Philippine territory to protect our sovereignty and dignity as a people. We cannot afford to let our government decide. We cannot afford to be flexible and pragmatic when our national sovereignty and survival are at stake. A constitution as the supreme law of the land is there to provide guidelines, including prohibitions on government and government officials, to ensure the protection of the interest of the people at all times regardless of who may assume government positions. The banning of foreign bases, Madam President, is one such restriction that should not be left solely to the discretion of government as it involves the inalienable rights of our people to survive and shape their future.

Madam President, we have in the 1935 and 1973 Constitutions a provision renouncing war as an instrument of foreign policy. Is this not an inflexible and restrictive provision? Yet nobody objected to this kind of provision, and such restriction, Madam President, is not peculiar to our Constitution. The Japanese Constitution, for example, not only renounces war but also renounces the threat or use of force as a means of settling disputes with other nations. The German basic law, the Iranian Constitution and the Cuban Constitution also have restrictive, inflexible provisions. If they can have restrictions and inflexible provisions, why can we not have a restriction against foreign bases when our survival as a people is at stake?

Madam President, now is our unique, historical opportunity to place in our Constitution a provision against foreign bases. We appeal to the Members of this Commission, who are in their golden and twilight years, to consider our national sovereignty, our dignity and survival as a people. By standing against the bases, this body, our colleagues, assure the youth, the children of this country and future generations, a bright and smiling future.

In closing, Madam President, let us heed the warning of Claro M. Recto, the father of the 1935 Constitution, should we fail in our task of including a "no bases" provision in our Constitution. Mr. Recto said:

> Let not Macaulay's traveler from New Zealand, exploring the spectral ruins of Manila in the course of his post-atomic war peregrinations, and cautiously testing the radioactive waters of the Pasig from the broken arches of the Quezon Bridge, have cause to ponder that in those shuttered tenements and poisoned fields and rivers, once lived a nation unique in the annals of mankind, free men

> who put their liberties on the auction block, a sacrificial race with a mysterious urge to suicide, who, being weak and weaponless, took upon themselves the quarrels of the strong, and having been warned of their abandonment, still persisted in their lonely course, and whose brutalized and monstrously deformed survivors, scrambling with stunted limbs in the infected debris of their liberated cities, had forgotten even the echo of the memory of the strange illusion for which their race had fought and perished.

Thank you, Madam President.

MR. ROMULO. Madam President, the other listed speakers and interpellators have asked if they could be scheduled for Monday. Commissioner de Castro would just like to make a correction on the Journal before we adjourn.

MR. DE CASTRO. Madam President.

THE PRESIDENT. On what page does Commissioner de Castro wish to make a correction?

MR. DE CASTRO. On the Prayer, Madam President. It states like this:

> Bless this stern, retired military officer, ideal of the position of military ombudsman, to strike terror among the scoundrels and scalawags in the army but who had unfortunately applied for the position of security guard at the Subic Bay shipyards.

I approached Honorable Suarez and called his attention to the fact that I have never applied as security guard in Subic Bay, and I want him to correct the error because I want truth. He promised me that he would, yet until now, he has not stood up to correct the error.

THE PRESIDENT. Is Commissioner Suarez here?

MR. DE CASTRO. He was here a while ago when I told him about it.

THE PRESIDENT. Perhaps Commissioner Suarez will fulfill his promise on Monday.

MR. DE CASTRO. He told me he will stand up to correct the error, but he failed to do so, so I am correcting it now. This was brought to my attention by Commissioner Tingson. Madam President, I am always for truth and frankness. That is why I espoused the word "truth" in our Preamble, and I watched it, I followed it up until the Third Reading. That is why I am always recording the different citations of the lawyers here who cite so many cases and so many provisions of law because I want to check on their truth. I want that on this floor only truth and frankness shall prevail. Untruthful statements have no place for gentlemen like us, for honorable people like us. How can we be addressed as "Honorable" and yet we speak the untruth! Madam President, I cannot take that. Let us all be truthful in this Commission.

Thank you.

THE PRESIDENT. We will convey that to Commissioner Suarez. So, is there a motion to adjourn?

MR. NOLLEDO. Madam President, just one statement.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

Commissioner Suarez called me a "jungleman" but I did not object to that. I think all these statements there were given in a light vein, and I think there is sincerity in the words.

THE PRESIDENT. We will leave that to Commissioner Suarez to explain.

MR. NOLLEDO. Thank you.

ADJOURNMENT OF SESSION

MR. ROMULO. May I move to adjourn until Monday at nine-thirty in the morning.

THE PRESIDENT. The session is adjourned until Monday at nine-thirty in the morning.

It was 12:37 p.m.

R.C.C. NO. 83
Monday, September 15, 1986

OPENING OF SESSION

At 9:56 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Lorenzo M. Sumulong.

Everybody remained standing for the Prayer.

PRAYER

MR. SUMULONG. Heavenly Father, through Your Divine Guidance we are approaching the end of our labors in the making of a new Constitution for our people. Of course, it was not smooth sailing all the time. It was unavoidable that many a time we see the same subject in different lights. Each of us has his or her own ideas and philosophies, depending on the heredity and the environment which have influenced our lives. There were even moments when in the heat of the discussion tempers flared and emotional outbursts were exchanged causing temporary disruption in the proceedings but these lapses in parliamentary decorum were soon tided over and tranquility in the floor discussions restored, thanks no doubt to the compassionate and merciful attitude that You, our Heavenly Father, take towards our human failings and shortcomings.

We pray, dear Lord, that in the days that remain for us to finish our work on the new Constitution, You will continue infusing in us the power of the Holy Spirit so that we may have the health, the strength, the light and the wisdom to carry on our task to a successful conclusion, to be more tolerant of each other's views, to be magnanimous in victory and graceful in defeat.

Let not our honest differences in opinion stand in the way of our unity. Let us respect the opinions of those with whom we disagree. Let them believe that they are right and we are wrong, even as we believe that we are right and they are wrong. For, after all, as one Spanish poet said:

En este mundo engañador
Nada es verdad ni mentira
Todo es segun el color
Del cristal con que se mira.

Kung ipahihintulot ninyong isalin ko sa ating sariling wika:

Sa mundong ito na lubhang mapaglinlang
Walang lubos na katotohanan, walang lubos
 na kasinungalingan,
Ang lahat ay alinsunod sa kulay
Ng palagaying ating tinataglay.

Heavenly Father, we believe in You and in Your Son, Jesus Christ, and we trust that in Your infinite goodness and kindness, You will lead us to the right paths, You will lead us to the right decisions. We pray for Your continued guidance and assistance. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Laurel	Present*
Alonto	Present*	Lerum	Present*
Aquino	Present*	Maambong	Present*
Azcuna	Present	Monsod	Present*
Bacani	Present	Natividad	Present
Bengzon	Present	Nieva	Present
Bennagen	Present	Nolledo	Present*
Bernas	Present	Ople	Present*
Rosario Braid	Present	Padilla	Present
Calderon	Present	Quesada	Present*
Castro de	Present	Rama	Present*
Colayco	Present	Regalado	Present
Concepcion	Present	Reyes de los	Present
Davide	Present	Rigos	Present
Foz	Present	Rodrigo	Present
Garcia	Present	Romulo	Present
Gascon	Present	Rosales	Absent
Guingona	Present*	Sarmiento	Present*
Jamir	Present	Suarez	Present

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*Appeared after the roll call

Sumulong	Present	Treñas	Present
Tadeo	Present*	Uka	Present
Tan	Present	Villacorta	Present*
Tingson	Present	Villegas	Present

The President is present.

The roll call shows 31 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of the previous session.

MR. DE LOS REYES. Madam President, just a slight correction.

THE PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. On page 16, second paragraph, third line, I request that the word "NOT" be inserted between the words "is" and "targeted," so that it will read: "that the country is NOT targeted." Then on the third paragraph, first line, instead of the word "continue," it should be "CONTINUOUS," so it will read: "The current pressure, he stated, is the CONTINUOUS attacks . . ."

With those corrections, I have no more objection to the Journal.

THE PRESIDENT. Are the proper corrections made?

Is there any objection? *(Silence)* The Chair hears none; the Journal, as corrected, is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from the Sangguniang Bayan of Kabayan, Benguet, signed by Mayor Alfonso P. Aroco, opposing strongly the move to grant autonomy to the Cordillera region.

(Communication No. 905 – Constitutional Commission of 1986)

To the Committee on Local Governments.

Communication from Mr. Lupo T. Carlota, transmitting a resolution adopted by the First National Convention of Filipino-Americans in the United States, Memphis, Tennessee, urging the Constitutional Commission to include in the Constitution a provision allowing Filipinos to have dual citizenship.

(Communication No. 906 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Letter from Dean Celso B. Lantican, Acting President, Philippine Society of Foresters, Inc., pointing out some of the more serious disadvantages of the proposed 10-20 years logging ban, expressing hope that said ban will not be acted upon favorably.

(Communication No. 907 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Letters urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, from:

1) Pastor Victor G. Lamarca
Malabon Church of God
World Missions of the Philippines, Inc.
Malabon, Metro Manila

(Communication No. 908 – Constitutional Commission of 1986)

2) Faith Tabernacle Church
c/o Mr. Alfeo Namacpacan
Sta. Catalina, Negros Oriental

(Communication No. 909 – Constitutional Commission of 1986)

3) Mrs. Cora A. Go
Tagum Christian Fellowship
Tagum, Davao del Norte

(Communication No. 910 – Constitutional Commission of 1986)

4) Rev. Honorable Nerpiol
The Church Leadership Council
Surallah Alliance Church
Surallah, South Cotabato

(Communication No. 911 – Constitutional Commission of 1986)

5) Rev. Mike J. Aguatis
Bible Land Mission
P.O. Box 19, Tagbilaran City
Bohol

(Communication No. 912 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Letter from Mr. Aurelio Periquet, Jr., President of the Philippine Chamber of Commerce and Industry, expressing his views on the proposed Article on National Economy and Patrimony and proposing specific amendments to Sections 1, 4 and 9 thereof.

(Communication No. 913 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication signed by two hundred seventy signatories from the Philippine Women's University, seeking to incorporate in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 914 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended for a few minutes.

It was 10:08 a.m.

RESUMPTION OF SESSION

At 10:18 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. ROMULO. Before proceeding with the regular business of the day, may I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

QUESTION OF PRIVILEGE OF COMMISSIONER SUAREZ

MR. SUAREZ. Thank you, Madam President.

I am compelled to stand before this body this morning on a matter of personal privilege, but I will deal with it very briefly. I would like to state from the outset, Madam President, that this is in connection with the prayer which I recited last Friday, September 12, 1986, as reflected in Journal No. 81 of our regular sessions.

At the outset, let me state that although the prayer was rather irreverent, it was made without any malice and was not intended to malign any of our distinguished colleagues, especially a distinguished colleague for whom personally I have developed great affection and respect.

There is a portion in the prayer I recited, Madam President, which reads and I quote: "but who had unfortunately applied for the position of security guard at the Subic Base shipyard."

I would like to state, Madam President, that this is absolutely without factual basis and lest it create any misunderstanding, may I formally move for the deletion of this particular phrase in order that we can set the records straight. May I extend my profuse apologies to a distinguished friend and colleague in the person of Commissioner de Castro, who feels alluded to in my prayer.

I cannot end the statement without adding that I absolutely had no intention of offending the sensibilities of my good friend, Commissioner de Castro.

Thank you, Madam President.

THE PRESIDENT. Thank you.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. May I thank my distinguished colleague for being a true Gentleman for the things he has said. I accept them graciously, Madam President.

Thank you.

THE PRESIDENT. Thank you, Commissioner de Castro, and as moved by Commissioner Suarez, let the proper portion of the prayer be deleted.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. ROMULO. I move that we continue the consideration on Second Reading of Proposed Resolution No. 537, Committee Report No. 36, with regard to the Article on the Declaration of Principles.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved. The honorable chairman and members of the Committee on Preamble, National Territory, and Declaration of Principles are requested to occupy the front table. May we ask the Acting Floor Leader if we will proceed to the speeches?

MR. ROMULO. Yes, Madam President. The first speaker is Commissioner Aquino, but she is not here. So may I ask that Commissioner Regalado be recognized.

THE PRESIDENT. Commissioner Regalado is recognized.

SPEECH OF COMMISSIONER REGALADO

MR. REGALADO. Thank you, Madam President.

I rise in support of the proposal of Commissioner Rodrigo for the reasons he has advanced and as ramified by those who share his view. My concurrence, however, is further anchored not on an affirmation of knowledge on my part as to the truth of the contending arguments on the issues involved in such a proposal but on a disclaimer of an adequate knowledge as to the veracity of the same.

We have been regaled here by those who favor the adoption of the anti-bases provisions with what purports to be an objective presentation of the historical background of the military bases in the Philippines. Care appears, however, to have been taken to underscore the inequity in their inception as well as their implementation, as to seriously reflect on the supposed objectivity of the report. Pronouncements of military and civilian officials shortly after World War II are quoted in support of the proposition on neutrality; regrettably, the implication is that the same remains valid today, as if the world and international activity stood still for the last 40 years.

We have been given inspired lectures on the effect of the presence of the military bases on our sovereignty – whether in its legal or political sense is not clear – and the theory that any country with foreign bases in its territory cannot claim to be fully sovereign or completely independent. I was not aware that the concepts of sovereignty and independence have now assumed the totality principle, such that a willing assumption of some delimitations in the exercise of some aspects thereof would put that State in a lower bracket of nationhood.

On the other hand, I am informed that the United States has military facilities in Portugal, Great Britain, the Netherlands, Belgium, West Germany, Spain, Italy, Greece, Turkey, Iceland, Japan and South Korea. But it is also claimed that not one of such countries has been said to have lost its independence because of such bases. Russia also has military bases in North Korea, Vietnam, Poland, East Germany, Czechoslovakia, Hungary, Romania, Bulgaria, Cuba, Syria and South Yemen. How then do these countries stand under the argument thus raised? For if it may be said that those allied with the United States are the running dogs of the Americans, how about the so-called contrary label that the Soviets also have their lackeys and surrogates?

We have been receiving a continuous influx of materials on the pros and cons on the advisability of having military bases within our shores. Most of us who, only about three months ago, were just mulling the prospects of these varying contentions are now expected, like armchair generals, to decide not only on the geopolitical aspects and contingent implications of the military bases but also on their political, social, economic and cultural impact on our national life. We are asked to answer a plethora of questions, such as: 1) whether the bases are magnets of nuclear attack or are deterrents to such attack; 2) whether an alliance or mutual defense treaty is a derogation of our national sovereignty; 3) whether criticism of us by Russia, Vietnam and North Korea is outweighed by the support for us of the ASEAN countries, the United States, South Korea, Taiwan, Australia and New Zealand; and 4) whether the social, moral and legal problems spawned by the military bases and their operations can be compensated by the economic benefits outlined in papers which have been furnished recently to all of us.

Nor is that all. We are now asked to ponder on whether the removal of the bases would result in a power vacuum which, inevitably, will have to be filled by the intrusion of another power. It is contended that nature, like law and geopolitics, abhors a vacuum.

Our attention is drawn to such esoteric theories, such as our being at a strategic crossroad near the so-called "choke points" on the Straits of Malacca, Sunda and Lombok, which lead to the Indian Ocean, the Middle East and Europe. It is reported that half of Asia's oil supplies and four-fifths of its materials allegedly pass through these "choke points." This is also claimed by the Trade Union Congress of the Philippines (TUCP).

We are also told that the U.S. facilities at Subic Bay are the primary port, training area and logistic support and maintenance base to support American air and naval operations in the Pacific, South China Sea and Indian Ocean. To stress this point, we are warned about the Russian military facilities at Cam Ranh Bay and its air forces at Da Nang, which is only one hour's flying time away from the Philippines. There are attempts to picture to us the number of war vessels, submarines, planes and other Soviet offensive armaments there. We are also warned about the growing Soviet power in the Pacific, since the island nations known as the South Pacific Forum have lifted their ban against Russian vessels and the Gilbert Island group has signed a fishing agreement with the Soviets, with Vanuatu and Fiji considering similar agreements. We are also forewarned that even if the United States should transfer its bases to Wake Islands or Yap Islands, we would still be in the center of the line therefrom to Cam Ranh Bay and Da Nang.

We also have transcripts of proceedings in Washington and the Pentagon, as well as reports of military and economic analysts, regarding the military bases. Countervailing views have also been presented by local cause-oriented groups and writers professing technical knowledge ranging from strategic worldwide planning to the destructive power of five-megaton bombs.

Where then does this avalanche of arguments and welter of views leave 47 appointed Commissioners who have been tasked with writing a Constitution but are now expected to pass upon, if not to decide the fate of 55 million Filipinos whom they were not even elected to represent? How do we, at this moment in our deliberations, verify the unverifiable data in these respective representations posited by both sides?

We have all, I assume, done our homework and our researches. Some of us, obviously, have been further aided by resource materials and arguments from diverse supportive sources. But my own personal perception is, despite all diligence, the materials I have – generally foreign in origin, outdated in vintage, unauthenticated in substance and slanted in presentation – do not yield for me that desirable level of certitude as a basis for a well-reasoned opinion. I am that concerned for, in truth, the issue before us is actually a mere spin-off from the present global contest between offshoots of American imperialism and Russian hegemonism. This is a problem of such transcendental proportions which it would be wishful thinking for any constitutional commission to even assay to resolve.

Of course, one side of persuasion has submitted categorical, unequivocal and forceful assertions of their positions. They are entitled to the luxury of the absolutes. We are urged now to adopt the proposed declaration as a "golden," "unique" and "last" opportunity for Filipinos to assert their sovereign rights. Unfortunately, I have never been enchanted by superlatives, much less for the applause of the moment or the ovation of the hour. Nor do I look forward to any glorious summer after a winter of political discontent. Hence, if I may join Commissioner Laurel, I also invoke a caveat not only against the tyranny of labels but also the tyranny of slogans.

I do not think I am alone in my position. It is not one of indecisiveness but of reasoned caution. While I would not want to fence-sit with the timorous, neither would I wish to assume the hypocrisy of advancing a conclusion on premises personally unknown to me.

I believe, as the speakers before me have averred, that the military bases issue, as well as the other proposed sections related thereto, should be thoroughly discussed in another forum at another time and by another select group of representatives of our people, and ultimately, by the people at large. Our discussions here, in the limited time we have had and that which remains for the completion of our task, cannot exhaust all the aspects, options and agreements on the issue of military bases. I agree with the proposal that this matter be submitted to as extensive and intensive discussions as possible among all sectors of our country, since each one has a stake in this matter which, unlike most of the other constitutional provisions, is so directly equated with and determinative of our national survival. This is not to denigrate the competence of this body or to question its dedication. In fact, identical reports in the newspapers have identified some heretofore hidden "legal luminaries" which we were not aware had graced us with their presence in our midst! Also, I am happy that my lack of mental equipment which causes me to make the disclaimer in this submission has been more than offset by the erudition of such talented colleagues.

But, on established principle and accepted practice, the conduct of foreign relations and the determination of foreign policy are the province of the executive and the legislative departments. The reason is obvious: They are in the best position, with the expertise of their ministries or legislative committees and the domestic and overseas facilities at their command, to evaluate the international situation and assess its effects on our country. I have long said that the so-called legal omnipotence of the Commission does not confer an affected omniscience on its Members. I do not agree that a constitutional commission or convention should properly intrude into that executive domain or usurp that function under the guise of laying down a guideline, especially one so inflexible as is now being proposed. It is not only preemptive of the executive and legislative action but may even be construed as a virtually presumptuous assumption that only this Commission has the wisdom and the patriotism to decide and effectuate such a vital decision. The malicious may even say, and perhaps with some element of truth, that the very Commissioners whom the President appointed do not seem to have much confidence in the latter's capacity to exercise her options in the national interest or, for that matter, in the competence or nationalism of her future successors.

The same inference may be levelled at the new Congress since, as shown by the previous proceedings in this body, not only has there been a perceptible patina of distrust for such a future Congress but there have even been subtle attempts to encroach upon its legislative prerogatives.

To those who may be so minded, and especially in connection with the issues under discussion, it would not be amiss to recall the gentle suggestion made by the President during our inaugural ceremonies,.a reminder apparently borne out of experience in the previous constitutional convention, when she appealed and I quote:

> Second, limit yourselves to your constitutional missions. Your task is to design a constitution that will provide for a new legislature, not to do that legislature's work for it. That is for the people's elected representatives to do.
>
> You must define and protect our individual freedoms and rights. You must decide how our different institutions of state shall relate to each other. Do not be distracted by political debates and matters of policy that do not belong within your constitution-making exercise. You are here by the people's wish to write a constitution; you are not here as elected politicians.

In closing, I would wish to emphasize that the foregoing considerations I have stated should not detract from the basic proposition that those in favor of deleting any mention of military bases in the Constitution are not thereby indicating a choice as to whether the same should be retained or dismantled. No. All that it means is that the matter shall be properly and correctly submitted to the judgment of the political leadership and the people, instead of this Commission, in the proper exercise to be called for that purpose at the appropriate time, and not in a rush judgment in a state of emotionalism.

Thank you, Madam President.

MR. RAMA. Madam President, the next registered speaker is Commissioner Bennagen. He is still out of the session hall. So, may I call on Commissioner Suarez.

THE PRESIDENT. Commissioner Suarez is recognized.

SPEECH OF COMMISSIONER SUAREZ

MR. SUAREZ. Thank you, Madam President.

I am quite satisfied that the crucial issues involved in the resolution of the problem of the removal of foreign bases from the Philippines have been adequately treated by previous speakers. Let me, therefore, just recapitulate the arguments adduced in favor of a foreign bases-free Philippines:

1. That every nation should be free to shape its own destiny without outside interference;

2. That no lasting peace and no true sovereignty would ever be achieved so long as there are foreign military forces in our country;

3. That the presence of foreign military bases deprives us of the very substance of national sovereignty and this is a constant source of national embarrassment and an insult to our national dignity and self-respect as a nation;

4. That these foreign military bases unnecessarily expose our country to devastating nuclear attacks;

5. That these foreign military bases create social problems and are designed to perpetuate the stranglehold of United States interests in our national economy and development;

6. That the extraterritorial rights enjoyed by these foreign bases operate to deprive our country of jurisdiction over civil and criminal offenses committed within our own national territory and against Filipinos;

7. That the bases agreements are colonial impositions and dictations upon our helpless country; and

8. That on the legal viewpoint and in the ultimate analysis, all the bases agreements are null and void *ab initio,* especially because they did not count the sovereign consent and will of the Filipino people.

Madam President, I submit that the foregoing arguments are just as valid and as sound as they are today, especially because of the proliferation of sophisticated nuclear weapons of destruction, as they were in 1898 when President McKinley received his divine imperialist inspiration; in 1902 when the Philippine Bill was enacted; in 1916 when the Jones Law was passed; in 1933 when the Hare-Hawes-Cutting Law was approved; in October 1933 when Resolution No. 40 was passed by our own Philippine Congress rejecting the Hare-Hawes-Cutting Law on the ground that "the military, naval and other recreations provided for in said Act are inconsistent with true independence, violate national dignity and are subject to misunderstanding"; in March 1934 when the Tydings-McDuffie Law was signed by President Franklin Delano Roosevelt, providing merely for retention of naval reservations and fueling stations for a period of only two years after the grant of Philippine independence, and further providing for the perpetual neutralization of the Philippine Islands if and when Philippine independence shall have been achieved; in June 1944 when Joint Resolution No. 93 of the United States Congress was passed, authorizing the President of the United States to withhold, or to acquire and retain such bases; on July 4, 1946 when the independence of the Philippines was proclaimed simultaneously with the signing of the Treaty of General Relations; and in March 1947 when the Military Bases Agreement was executed.

Madam President, I will, therefore, refrain from further belaboring the foregoing arguments. I will concentrate briefly on two main points of discussion: Firstly, on the claim that the American military bases are needed to protect the Philippines from external aggression and, secondly, on the claim that the issue of foreign bases does not deserve a place in our Constitution.

Touching on the first point, and in order to expose the hypocrisy of the claim that the United States bases are principally intended to protect the Philippines, allow me just to quote significant portions of dialogues which took place in the hearings before the Subcommittee on

United States Security Agreements and Commitments Abroad of the United States Senate Committee on Foreign Relations in 1970. Madam President, I am referring to what is popularly known as the Symington Report. This is what took place in that dialogue:

> SENATOR FULBRIGHT: We are not really there to protect the Philippines. We are there to serve our own purpose, to maintain a base for what we believe to be our forward protection against China or anybody else. That is our purpose.
>
> ADMIRAL KAUFFMAN: Yes, sir. I believe we are there because these are very fine bases for the United States.
>
> SENATOR FULBRIGHT: For our own purpose.
>
> ADMIRAL KAUFFMAN: Yes, sir.
>
> SENATOR FULBRIGHT: But is it not inevitable that because of our presence there and with this purpose, we would always use our influence for the preservation of the status quo? We will always resist any serious threat in the political and social structure of the Philippine government, which is very likely to be in the long run a detriment to the people of the Philippines.
>
> SENATOR SYMINGTON: What, therefore, is the real purpose of this military assistance? Doesn't it come down to a *quid pro quo* for the bases and a means of contibuting to the Filipino government?
>
> ROBERT H. WARREN: In my opinion, to a degree, sir. But it is also to help the Filipino forces to physically protect the United States forces in the Philippines.
>
> SENATOR SYMINGTON: From whom?
>
> ROBERT H. WARREN: Internally, sir; to maintain internal security and stability and thereby make our own activities over there more secure.
>
> SENATOR SYMINGTON: In other words, we are paying the Philippine government to protect us from the Filipino people who do not agree with the policies of the government or do not like the Americans.
>
> ROBERT H. WARREN: To a degree, yes, sir.

Madam President, need we say more? Except, perhaps, to add that the bases are not vital to our national security, and to underscore the point that the new United States strategy is to arm regional clients like the Philippines to protect United States interests rather than have the United States directly intervene.

On the second point, may I draw attention to the fact that in our own draft Constitution, we had time and again approved provisions which are, in my humble judgment, less substantive and less pervasive in character, impact and scope than a provision involving the paramount national interests of survival and dignity.

Thus, without denigrating the respective merits of the following approved provisions but only to underscore the justification for the inclusion in our Constitution of a provision involving a basic issue of the safety and survival of our country and national sovereignty, let me cite a number of these provisions which, in the first place, may be classified as essentially legislative in character: provision regarding the nonprescription of offenses involving ill-gotten wealth; provision regarding prohibition against green card holders to hold offices in public; provision regarding double allegiance as inimical to national interests; provision on sports development; provision regarding standardization of compensation of government officials and employees; provision governing members of the Armed Forces of the Philippines holding positions in the civilian government; provision regarding submission of reports to the President and Senate by the COMELEC and the judiciary; provision governing the promotion of the Spanish language; provision involving the Constitutional Commission to perform such other functions as may be provided by law; provision governing appointments extended by the Acting President; provision regarding the President's power to supervise public officers and offices; provision requiring each House of Congress to keep a Journal of its proceedings and from time to time to publish the same; provision requiring that records and books of accounts of Congress shall be preserved and be open to the public in accordance with law; provision requiring that members of the judiciary must be of proven competence, integrity, probity and independence; and we even have this provision governing the scaling of salaries of these elective and appointive officials.

In the real sense, Madam President, if we in the Commission could accommodate the provisions I have cited, what is our objection to include in our Constitution a matter as priceless as the nationalist values we cherish? A matter of the gravest concern for the safety and survival of this nation indeed deserves a place in our Constitution.

It is within the plenary powers of this august body to include the provision governing foreign bases.

Madam President, while I believe that emotionalism should not be allowed to affect our judgment, I cannot conclude this discussion without conveying to this Commission the poignant question posed by a young student in the course of the public hearings conducted in San Fernando, Pampanga, attended by some of our distinguished colleagues. It is a question which had caused me great personal anguish. This young student, conscious of his rights, asked us – his elders, the framers of this Charter – this burning question: Why should we bargain away our dignity and our self-respect as a nation and the future of generations to come with thirty pieces of silver?

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Bennagen be recognized.

THE PRESIDENT. Commissioner Bennagen is recognized.

SPEECH OF COMMISSIONER BENNAGEN

MR. BENNAGEN. Thank you, Madam President.

There have been a number of pros and cons on the U.S. military bases on neutrality and on nuclear-free weapons, but I would like to focus on at least two. One, we should not even mention anything on the U.S. bases because we do not have enough knowledge of the intricacies of the issue. If we should use the argument of inadequacy of knowledge, then there is no reason for us to enshrine a number of provisions our knowledge on which are rather imperfect. If we adopt that principle of nonaction because of inadequate information, then the whole world will grind to a halt in terms of planning and decision-making.

My view is that we do have adequate information on which to base a decision to ban the U.S. military bases or any foreign military bases, as well as nuclear weapons, on Philippine soil.

The underlying principle of military bases and nuclear weapons wherever they are found and whoever owns them is that those are for killing people or for terrorizing humanity. This objective by itself at any point in history is morally repugnant. This alone is reason enough for us to constitutionalize the ban on foreign military bases and on nuclear weapons.

Two, it has also been said that the U.S. military bases are strategic to the interest of the Philippines. I shall link this concept with the issues of democracy and communism. Essentially the question is: For whom are the bases? To settle this issue, it is important to listen to the voices of the American policy makers. For us to fully understand the answer to this question, let us go back in time when America or the U.S. specifically was planning its dominant role in the whole world. Let me cite a paper of my professor, Noam Chomsky, a professor of linguistics at the Massachusetts Institute of Technology, in a talk at Harvard University on March 19, 1985, when he spoke on U.S. intervention in Asia and in Central America.

He pointed out that from 1935 to 1945, extensive studies on geopolitics were conducted by the Council on Foreign Relations and the State Department. One of these groups was called the War Peace Studies Group. These groups developed what they called "Grand Area" planning. The "Grand Area" is the region subordinated to the needs of the American economy and is "strategically necessary for world control." In their geopolitical analysis, the "Grand Area" must include the Western Hemisphere, the Far East, the former British Empire, Western and Southern Europe and the oil-producing regions in the Middle East.

For the so-called Far East, their analysis was for Japan to be the "industrial heartland of Asia." But because Japan is resource-poor, it would need Southeast Asia and South Asia for resources and markets. All these will be incorporated within the global system dominated by the United States.

This thinking was best expressed by George Kennon, head of the State Department policy planning staff, in the late 1940s, when he wrote in 1948:

> We have about 50 percent of the world's wealth but only 6.3 percent of its population . . . . In this situation, we cannot fail to be the object of envy and resentment. Our real task in the coming period is to devise the pattern of relationships which will permit us to maintain this position of disparity . . . . We need not deceive ourselves that we can afford today the luxury of altruism and world benefaction . . . We should cease to talk about vague . . . and unreal objectives such as human rights, the raising of the living standards and democratization. The day is not far-off when we are going to have to deal in straight power concepts. The less we are hampered by idealistic slogans, the better.

It is the same principle that was applied to Latin America for the "protection of raw materials" needed by the United States. In this regard, Chomsky asked, "Protect from whom?" From the indigenous populations, meaning those of Latin America who would naturally want to use the resources for their own use.

He asked further, "Protection by what means?" George Kennon provides the answer:

> The final answer might be an unpleasant one but . . . we should not hesitate before police repression by the local government; this is not shameful since the communists are essentially traitors. . . . It is better to have a strong regime in power than a liberal government if it is indulgent and relaxed and penetrated by Communists.

In American political discourse, the term "communist" is regularly used to refer to people who are committed to the belief that the government has direct responsibility for the welfare of the people.

This is quoted from a 1949 State Department Intelligence Report which warned of the spread of the doctrine, which necessarily would threaten U.S. needs for raw materials. True enough, John F. Kennedy once said that the governments of the civil-military type of El Salvador are the most effective in containing communist penetration in Latin America.

It should be pointed out that since the Second World War, the U.S. military's enemy has been world communism, as articulated by George Kennon and other U.S. policymakers. But we ask: "What is this communism as viewed by the United States?" A systematic review of congressional hearings involving the military shows that the term "communism" is interchanged with (1) "neutralist" (2) "forces of disruption" (3) "extremists" (4) "dissidents" (5) "anti-American" (6) "socialists," and others. These are the so-called "communists" that the members of the U.S. military-industrial complex see as the forces of evil in the world. This thinking is transmitted throughout the world through the extensive network of communication and U.S. propaganda, including the U.S.-supported military training schools. This is the same principle underlining U.S. propaganda in the Philippines that has reduced democracy and communism into black and white.

In the middle of 1950, these ideas about U.S. policy on "communism" were further developed by a prestigious study group headed by a professor of government in Harvard University. The conclusion was that "communism" is the enemy. Why is "communism" the enemy? Because its economic transformation does not "complement the industrial economics of the West." This is the basis for Chomsky to say: "The U.S. quite consistently tries to create enemies if a country tries to free itself from U.S. domination." This is the historical basis of the ever-present "Red Scare." Referring to Latin America, he says:

> What we do is drive a country that tries to get away from U.S. influence into being a base for the Russians because that justifies the U.S. to violently intervene in the internal affairs of the country to keep this country within its grip.

Of course, we know that this pattern has taken place in Asia and the Philippines.

Specific to the Philippines, George Kennon who linked the military strategy of forward deployment with the containment of Soviet and Communist power agreed with General MacArthur's idea in 1948 that the strategic boundaries of the United States were no longer along the western shore of North and South America but in the western coast of the Asiatic continent. George Kennon said:

> It is my own guess that Japan and the Philippines will be found to be the cornerstones of such Pacific security system and that if we can continue to retain effective control over these areas, there can be no serious threat to our security from the East within our time.
>
> It was necessary therefore to shape our relationship to the Philippines in such a way as to permit to the Philippine government a continued independence in all internal affairs, but to preserve the archipelago as a bulwark of U.S. security in the area.

This, too, was the historical and geopolitical context for the bases agreement in 1947.

I shall not cover the same ground already covered clearly by Commissioner Garcia and, recently, this morning, by Commissioner Suarez.

Let me say now that it is in understanding the geopolitical context of U.S. policy that we begin to make sense of what representative Stephen Solarz, Chairman of the powerful House Subcommittee on Asian and Pacific Affairs, said regarding U.S. policy in the Philippines very recently:

> On a scale of ten, our interests are: 6.5 for the military bases at Subic and Clark; 2 for U.S. investments and trade; and, to be kind, 1.5 for Filipino human rights.

It is also in this context that we begin to understand the following recent statements attributed to American officials according to a Philippine News Agency dispatch from Washington, D.C. It states:

> Richard Armitage, Assistant Secretary of Defense for Far Eastern Affairs, told Congress that the NPA's strength had increased from 12,000, before President Aquino took over, to 16,000. The idea is to increase the threat, if even speculative, of insurgency in the Philippines as a basis for U.S. intervention.
>
> Gaston Sigur, Assistant Secretary for East Asian and Pacific Affairs, also told Congress that no one should underestimate our resolve to maintain our defense and mutual security arrangements with the Philippines and to preserve our access to the facilities at Subic and Clark through 1991 and beyond.

He was quoted as saying:

> The bases support our strategy of forward deployment in Asia and provide a secure foundation which makes possible the pursuit of our larger political and economic interests in this key part of the globe.

One unnamed source said:

> The U.S. will also have no qualms to destabilize the present government if it perceives that its interests are being jeopardized or the communists are taking the upperhand.

The same context helps us put into perspective the Manila Declaration by the International Security Council during its recent Manila conference on August 12-14, which was cited by Commissioner de Castro last week. This Conference was chaired by a right-wing scholar who was once hired by the Marcos regime to wage a propaganda campaign in support of that regime. The document re-echoes the cold war rhetoric between "democracy" and "communism."

I argue that all these developments demand of us a thoroughgoing reexamination of the cold war rhetoric between democracy and communism, between the idea of a strategic interest so that we can blaze a path of our own choosing, consistent with our history, our cultural values, our own needs and our aspirations.

International politics and patterns of social development are much too complex to be reduced into mere opposition to "democracy" and "communism." We must not accept the concept of strategic interests or strategic importance without asking: For whom? Right now, new nations are exploring unchartered paths of national development, guided by the human right to self-determination. We can do no less. But this exploration can only be done if we free ourselves not only from the clutches of the old colonial masters, most clearly evident in the presence of the U.S. military bases, but also from anachronistic ideas, values and structures. This would mean that we should not take words such as democracy and communism for what we have been told they are by American propaganda. We should not assume that strategic interests and existing political and economic structures are for the welfare of the Filipinos even if we are told of this repeatedly by American propaganda.

The time to do all this reexamination is now. And one way of starting this in a very concrete way is through the Constitution which is the fundamental law of the land. As the fundamental law, it is the place for declaring that there should be no foreign bases on our soil, that our homeland should be nuclear-free, and that we assert, along with our neighbors, that we shall move forward towards a region of peace, freedom and neutrality.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Bacani be recognized.

THE PRESIDENT. Commissioner Bacani is recognized.

SPEECH OF COMMISSIONER BACANI

BISHOP BACANI. Madam President, I do not intend to make a speech because many of the speeches have been very scholarly, very impressive, very persuasive in their arguments. What I would like to give are two footnotes which may be helpful in the discussion. The two footnotes are these:

The first and what I consider more important is the concept of the necessary evil, which we may perhaps explore. I have noticed that in the arguments we have advanced there have been points trying to show that U.S. naval bases here have been an evil element in our history and also arguments trying to show that we are either not certain of this or that the bases have been somehow beneficial also to us as a people.

What I would like to point out is that there may be a third element to consider and that is whether the bases are evil or good. If they are evil, then there is a possibility that they may be a necessary evil and that, thus, even if they should exist and may be allowed to exist, they can be tolerated for the sake of a greater good, at least for the time being.

Let me cite some examples, one from our own physical life and the other from our political life. Sometimes a child may have a rheumatic heart, and it may be good to rectify in the abstract that rheumatic heart disease in the beginning. And yet doctors may advice—as for example, a doctor has advised in the case of a child of a friend of mine – that the operation be postponed till after 10 years so as to enable the child to gain enough strength in order precisely to be able to bear the operation. So here, there is an evil and it is an acknowledged evil and yet it is tolerated for the sake of a greater good.

In another instance, for example, in the matter of our political life, a cabinet minister who perhaps should be removed – and it seems advisable to remove – may be kept in the cabinet of the President because of the graver consequences for the present of his removal. Hence, the evil is known, the evil perhaps is acknowledged, but the removal of the evil is postponed till a later date precisely because of the greater good.

In the Scriptures, we also have something like this. There is the parable of the wheat and the weeds. We remember the parable of the Lord Jesus about a man who sowed wheat seeds and yet both wheat and weeds grew, and he was told by the laborers:

> But did you now sow wheat? Why then are there weeds? Do you want us to root them out?

And the Lord said to them:

> Let us wait till harvest time, lest by rooting out the weeds, you also do harm to the wheat.

And hence, even God sometimes tolerates some evil, some necessary evil precisely in order to achieve a greater good.

My second footnote, Madam President, has to do with the social costs of the bases. It has been pointed out that they are causes of prostitution and drug abuse and thus, allowing the bases to continue may mean the loss of the Filipino soul.

I neither want to exonerate the bases nor concur in their condemnation from the point of view of their social costs in the lives of our countrymen. I simply want to make this observation as one who has lived and worked in very close proximity to two American bases, the Subic Naval Base and the U.S. Naval Communications Station in San Antonio, Zambales. There was one noticeable phenomenon regarding the provenance of the hostesses and hospitality girls in both San Antonio and Subic. Hardly anyone of them came from San Antonio or Subic. They were practically all migrants from the Visayas, Bicol and sometimes from Manila, Pangasinan or other neighboring provinces. The same could be said of the hospitality girls and hostesses in Olongapo. They were and are neither permanent residents of that place nor are they originally from there. The people from these places I am referring to – Subic, San Antonio, and then, insofar as there are permanent residents there, of Olongapo, because they usually have a sufficient source of livelihood – do not enter the flesh market. This leads one to surmise that the presence of the bases in itself does not cause or is not at least the unique cause of prostitution. If this were the case the ones who would become prostitutes or hostesses soonest would be the girls from the very places where the bases are established, in this case, in Subic, in San Antonio and Olongapo. But no. The hospitality girls and hostesses usually come from afar. They come near the base areas for several reasons, but the two reasons we hear most are these two: First, they need to survive or make their families survive and second, they somehow hope to be able to become the steady or the wife of an American serviceman. Hence, the remedy to prostitution does not seem to be primarily to remove the bases because even if the bases are removed, the girls mired in poverty will look for their clientele elsewhere. The remedy to the problem of prostitution lies primarily elsewhere – in an alert and concerned citizenry, a healthy economy and a sound education in values.

It was interesting to have read this article yesterday, "Children of the Night," in the *Sunday Times Magazine.* The girl referred to here apparently does not work near an American base, but she earns her livelihood somewhere in Manila. And yet, she says: "Ayaw kong maging patay-gutom muli." That is in response to the possibility that she may leave her trade: "Sa trabaho ko may pag-asa pa akong umasenso. Baka isang araw may magkagusto sa aking Kano, gawin pa akong kabit." In other words, what I am trying to point out is, we may be barking at the wrong tree. In Thailand, at present, there are no longer any American bases, according to the information I have received. And yet one American magazine points out that they have one million prostitutes or hospitality girls in that place. Again, one magazine pointed out that there are about 500,000 hospitality girls in the Philippines. If that is so and if the figures for Olongapo are right that there are 15,000 registered hospitality girls, there are a lot more outside of Olongapo. It is not that I exonerate the bases for the ills because they do contribute; but what I am trying to say is, the remedy we are trying to propose may not fit completely the problem.

Thank you.

MR. RAMA. Madam President, I ask that Commissioner Jamir be recognized.

THE PRESIDENT. Commissioner Jamir is recognized.

SPEECH OF COMMISSIONER JAMIR

MR. JAMIR. Madam President, in rising to support the deletion of Section 3 of the proposed Article on Declaration of Principles, I am prompted by a desire to prevent the inclusion of any mention of neutrality and the maintenance of foreign military bases in our Constitution. In my opinion these matters are best left to the sound judgment of our President and the Congress, so that they may act on them as the future unfolds, and according to the best interests of our people. For our Constitution to mandate that this country must remain neutral at all times and prohibit the existence of foreign military bases here, irrespective of what the circumstances may demand, would be most unwise, if not suicidal, for it would put the government in a straitjacket in the conduct of foreign affairs.

My reasons for this stand are based upon events which have occurred in the recent past. Let us begin with the question of neutrality.

In 1935, the United States Congress passed the Neutrality Act which obliged the President to place an embargo on all shipments of arms beginning September 3, 1939. As long as this law remained in force, the United States could not do anything to help England and, later on, Russia fight the German hordes. The result would have been disastrous for all of us. For had England and Russia lost the war, all of us would have lain prostrate under the German boots. Fortunately, the Neutrality Act was not embodied in the United States Constitution, so it was repealed on November 30, 1939. America, therefore, was able to make itself the "arsenal of democracy," especially after the approval of the Lend-Lease Act. This instance is more than ample proof that it is wrong to tie the hands of our President and Congress by a constitutional provision mandating neutrality irrespective of circumstances. The better policy, as borne out by the event just related, is not to mention neutrality in our proposed Constitution.

Is neutrality a success? With the sole exception of Switzerland, which has not been invaded because it serves as a useful listening post for all nations at war and not because of its neutrality, it is a failure. Consider the following circumstances:

Belgium relied on its neutrality during the First and Second World Wars and, on Germany's promise to respect it, she refused to form a common front against the Kaiser's and Hitler's armies. On both occasions, however, Belgium was pillaged and plundered by the Germans. Holland and Denmark, whose neutralities were likewise guaranteed by Germany and who tried to placate Hitler's demands, became the sad victims of their delusion when they were crushed by the legions of that madman. Norway, whose neutrality was also guaranteed by Hitler, was invaded by the latter on the pretext that England was about to overrun that unhappy country.

These are facts of history and they furnish concrete examples of the failures of neutrality. Up to the present, these nations that put so much trust on their supposed diplomatic immunity are still suffering from the grievous wounds inflicted upon them by a nation whose word and honor meant nothing.

If the Philippines makes a unilateral declaration of neutrality in its Constitution, can it expect the rest of the world to abide by that declaration? Of course, it cannot because they are not bound thereby, not being parties to the declaration. The best thing to do then is to ask the superpowers to guarantee that neutrality. Shall we ask the United States to do it? I doubt very much if those who are suspicious of the United States would agree to this. In fact, I have yet to hear them say something good about that country. Or should we ask Russia to guarantee Philippine neutrality? Maybe, since there are those who appear to favor that nation. If so, I would like to remind that it was Russia who, in spite of her Non-Aggression Pact of 1921 with Finland, attacked that small country on November 30, 1939 because it failed to agree to lease the Port of Hango in the Gulf of Finland to Russia. Let me also remind that it was Russia that urged the Polish partisans to rise up in revolt against the German garrison a few days before Poland's liberation, only to leave the Polish patriots to the tender mercies of the German soldiers because Russia wanted the noncommunist partisans to be liquidated in order to give way to its own minions. What was worse was that Russia refused to allow the British and the Americans to give food and military aid to the Polish people. Even today, poor Poland continues under the Russian yoke and all striking Polish miners and workers are mowed down by Russian tanks and guns. The Polish do not even know when their calvary would end.

Let me also remind that six or seven years ago Russia invaded Afghanistan, its neighbor, in order to install Russia's puppet as president of that country. Since then so many Afghan lives have been lost and countless Afghan families have been driven from their homes to neighboring Pakistan. Up to now Russia continues to occupy Afghanistan against the will of its own people. And these hapless victims of ruthless invasion do not know if they will ever return to their native land. And so I ask if, in the guise of guarantor of our neutrality, we are ready to offer this country of ours as a succulent food for the Russian bear.

Let us now turn to the question of foreign military bases. My position on this matter is that nothing should be mentioned in our proposed Constitution regarding the maintenance of foreign military bases in the Philippines. In other words, this matter should be left entirely to the determination of our President and Congress as our country's interest may dictate.

One of the reasons advanced against the maintenance of foreign military bases here is that they impair portions of our sovereignty. While I agree that our country's sovereignty should not be impaired, I also hold the view that there are times when it is necessary to do so according to the imperatives of national interest. There are precedents to this effect. Thus, during World War II, England leased its bases in the West Indies and in Bermuda for 99 years to the United States for its use as naval and air bases. It was done in consideration of 50 overaged destroyers which the United States gave to England for its use in the Battle of the Atlantic.

A few years ago, England gave the Island of Diego Garcia to the United States for the latter's use as a naval base in the Indian Ocean. About the same time, the United States obtained bases in Spain, Egypt and Israel. In doing so, these countries, in effect, contributed to the launching of a preventive defense posture against possible trouble in the Middle East and in the Indian Ocean for their own protection.

It must be recognized that on our own, we cannot survive a full-scale war. The sheltering sea which surrounds us is not enough to guarantee our freedom from hostile attack and it will be foolish to suppose that in Southeast Asia, to which our country belongs, nothing untoward will happen. One can never tell when the malice of the wicked will surface. The best thing for us to do, therefore, is to invest in the goodwill of our neighboring nations by doing our share of the common defense. Since the bases of Subic Bay and Clark Field are obviously part of the defense perimeter of Southeast Asia, the little inconvenience we are undergoing due to the impairment of a portion of our sovereignty, which is more than offset by the protection they afford, may be considered our investment in peace and freedom.

Madam President, I have often asked myself whether the demand for neutrality and the removal of all foreign military bases from our shores stem from the desire to see this country bereft of all vestiges of self-protection or from a hatred of everything that has to do with the United States of America. I am unable to give a credible answer to either one of them. I cannot imagine why one would want his own nation to face a hostile world completely defenseless. Neither can I understand why one could see nothing but fault in the United States of America in spite of the obvious blessings she has showered upon us. But whatever may be the cause of these extreme demands, let us not forget that it is our country that will suffer by constitutionalizing them. The anxious hope of our countrymen is that in the discharge of our duties we shall act with circumspection and not with folly.

Let us, therefore, cast aside all pettiness so that the youth, with all his dreams, the middle-aged, with his memories of causes lost and won, and those in their twilight years can help bring our people out of bondage to the promised land.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Treñas be recognized.

THE PRESIDENT. Commissioner Trenas is recognized.

SPEECH OF COMMISSIONER TREÑAS

MR. TREÑAS. Madam President, may I also be allowed to express my sentiments on the crucial issue now before this Commission.

After hearing the eloquent and sometimes emotional arguments of those who favor the inclusion in our Constitution of the anti-bases provision, I am tempted to join them because there is no question that the bases or the presence of the bases may invite attack – nuclear attack – in case of war. It has spawned social problems. America insists that the rentals she is paying us are a measly amount compared with what is being paid to other countries in the form of aid. America has supported a corrupt and dictatorial regime; but on the other hand, after hearing the solid and somber arguments of Commissioner Rodrigo, as well as those who have supported him, I must say that I join him in this matter.

Madam President, I contend and respectfully submit that this Commission does not have the right or the duty to put in our Constitution a provision banning military bases. President Aquino, during the last presidential campaign, repeatedly stated her stand on the matter of the bases – that she has her options open and will decide accordingly at the proper time.

Madam President, I believe that we, her own appointed Commissioners who are supposed to draft our Constitution, the fundamental law of the land, should not preempt her from exercising her option at the proper time. We see in our President, as shown in the last few days, a dynamic President who can act decisively. She will be more so after a few years from now when this important issue will be decided. Why deprive her of this right which I sincerely believe belongs to her as our Chief Executive? By then the matter will be better studied by our government. Why deprive our future Congress, duly elected by the people, to affirm or ratify whatever is the decision of our President? Why deprive the Filipino people of the right to decide this crucial issue after the matter has been properly debated, the pros and cons expounded? If President Cory Aquino at the proper time should decide that the bases shall be removed and this is ratified by our Congress and supported by our people, so be it. If she believes otherwise, let us give her, our Congress and the people a chance. I will not repeat the other worthy arguments presented by other speakers.

Wherefore, Madam President, let my feeble voice be heard and my sentiments expressed in this manner. In the same breath, I support the report of the committee that we shall not allow nuclear weapons to be stored in any part of our country. I support the reasons and arguments of Commissioners Azcuna and de los Reyes. Let us join all other nations in proclaiming to the world that we shall not allow any nuclear weapon to be stored in our beloved country. If the superpowers America and Russia continue their insanity of building up nuclear power and destroy each other and the world in case of war, let it be in their respective conscience. But let us not pass this occasion without expressing the sentiments of the Filipino people that we shall never allow nuclear weapons to be stored in our country. However, I hope and pray that these two superpowers will realize the insanity of this all and sit together and say: "Let us destroy all our nuclear powers. Let us use all the billions we are spending for the eradication of poverty, disease and hunger." We look to that day and we are sure that all the world, all the nations of the world will be living in peace, harmony and love.

Thank you.

MR. RAMA. Madam President, may I ask that the chairman of the committee, Commissioner Tingson, be recognized.

THE PRESIDENT. Commissioner Tingson is recognized.

SPEECH OF COMMISSIONER TINGSON

MR. TINGSON. Thank you very much, Madam President.

I am aware that a goodly number of my fellow Commissioners have already eloquently expressed themselves on this burning issue of the day – the retaining or the dismantling of the United States military bases in the Philippines. Madam President, I do not intend to muddle the high-level discussions and debates on this controversial subject by getting into the fray on the flimsy excuse that I am duty-bound as a Member of this august body to speak up on any and all proposals brought forth before us. The truth is that I have tried to adhere to the wise advice that silence is golden especially when one is not considered an expert on a given subject.

Madam President, it is said that if you want to please an Englishman, give him tea. If you desire to please an American, serve him apple pie. If you expect to be a good host to a Korean, by all means produce him Kimchi. If you want to please a Mexican, give him tortillas. Ah, but if you want to please a Filipino, let him talk!

And speak I must, Madam President, because rightly or wrongly I have been singled out by the press and many columnists as the unabashed American-boy Commissioner. They have criticized me unjustly. They have hurled the Philippines against my reputation. They have tried to crucify me on the iron cross of intellectual indiscretion, all because I have been trained to articulate my honest convictions and to speak out my mind when I am convinced after ample and prayerful consideration that I have arrived at a reasonable conclusion or opinion.

Yes, Madam President and colleagues, I am for the retention of the American military bases in our country and I am affirming it today without hesitation or embarrassment. And why should I when survey after survey show unmistakably that a vast majority of the Filipino people are precisely opting for this decision and doing it decisively? Do we not believe anymore that *vox populi vox dei?* Is democracy not the very essence of respect for the voice of the majority?

In the last survey taken by the Bishops-Businessmen's Conference on this issue, an overwhelming majority of our people favored the retention of the American facilities at Clark Air Base and Subic Naval Base. Only an insignificant percentage voted for their removal.

But this humble Representation does not, of course, ask for retention of foreign military bases on our soil without conditions, nor is he advocating the extension of the bases treaty for 100 years more beyond 1991 without strict conditions. He is not that blind, nor is he that naive.

It is said that patriotism is a refuse for scoundrels. For the moment, let us equate this issue, pro or con, neither with the patriot nor with the scoundrel. Rather, let us try to be dispassionate and honestly objective.

Madam President, among my 47 resolutions filed with our Constitutional Commission is Proposed Resolution No. 268, advocating that those bases be extended from one period to another upon concurrence of the parties and such extensions shall be based on justice, the historical amity of the peoples of the Philippines and the United States and their common defense interest.

I agree with Francisco Tatad that as a sovereign country we must not consider ourselves hostage to any agreement which does not serve our national interest. Indeed, it is our right and duty to abrogate or modify any agreement that does not find consonance with our God-given rights; but it is equally our right and duty to defend every agreement we have signed with our word of honor as a self-respecting sovereign people. The well-known writer poses the question:

> Does the RP-US Bases Agreement serve our national interest? The United States, Japan and the whole of ASEAN need the bases. Do we need them as well? If the bases serve to tranquilize the waters of Western Pacific, how much tranquil would they be were those bases to be removed? What chances would a country have of living a peaceful and quiet life were the balance of power in the region to shift? Can we afford to exist as a group of islands in the middle of a vast ocean untouched and unmoved by the changing currents around us? Can we afford to pursue a policy of neutralism while the waters around us heat up?

Mr. Tatad continues to ask ponderously:

> Can we afford to speculate on our security? Do our reasonably friendly relations with Socialist Vietnam, with its Russian-supplied army of over a million man, allow us to tempt that country, with whom we have a territorial dispute over some oil-rich areas just a strip of water off Palawan, by dismantling the only structure that provides our external defense at this time?

Madam President, reality tells us that for good or ill, we continue to rely on the U.S. Seventh Fleet to provide security cover for our oil imports from the Middle East, and on the 13th Air Force particularly for our aerial defense. With the decline of our defense budget over the years, can we possibly fill with our resources a security vacuum arising out of a sudden American withdrawal of their military bases which obviously serve as a mutual defense for their and our security, including that of ASEAN?

These are gut questions that demand not wishy-washy but equally gut answers.

Madam President, along with those who have addressed this assembly during the last few days, I, too, would say that as a self-respecting country we must exert every effort to end our security dependence on a foreign power. But let us be down-to-earth pragmatists, not dreamers. Certainly, the time is not now – perhaps within the lifetime of our children's children.

Defense Minister Juan Ponce Enrile certainly knows whereof he speaks when he batted in a speech reported out by newspapers on Wednesday, July 23, 1986 for the retention of American military facilities in the country even beyond this century to counterbalance the growing Soviet military might in the Pacific region.

He said this is not the time to remove Clark Air Base and Subic Naval Base, the two major facilities of the United States in the country, because it will create a vacuum in this part of the world. It would not be in the interest of our country at this time or within a much longer period. The Soviets have a huge military base at Cam Ranh Bay in Vietnam, just a few flying hours from Luzon.

Enrile asked who will counterbalance the Soviets, if they do not get out of this region. He maintained that even the joint military forces in the Pacific, including China and Japan, would not be enough to counter the Soviet military force. The Defense Minister warned that if one superpower is stronger militarily than the other, the stronger one would be tempted to intrude into the national territory of the weaker nation.

In the case of the Philippines and the other Southeast Asian nations, the presence of American troops in the country is a projection of America's security interest. Enrile said that nonetheless, they also serve, although in an incidental and secondary way, the security interest of the Republic of the Philippines and the region. Yes, of course, Mr. Enrile also echoes the sentiments of most of us in this Commission, namely: It is ideal for us as an independent and sovereign nation to ultimately abrogate the RP-US military treaty and, at the right time, build our own air and naval might.

The Defense Minister continued by saying that we we can guard the boundaries of our nation against external attack maybe later on when we attain an economic strength to enable us to develop such capabilities.

My question, Madam President, is: Can anybody around honestly see in the offing such a possibility, perhaps within our lifetime?

On the other hand, Vice-President Salvador Laurel was reported to have said in another speech delivered on the same day that the U.S. bases should not be touched by our Constitutional Commission because any such decision written into our new Charter would tie down the hands of the government. Laurel said that with the bases question out of the Constitution, the government can respond to changes of circumstances and have more elbow room in the projected renegotiations of the bases treaty beginning 1988.

We must hear, of course, from our national leaders. Our Lady Chief Executive, President Corazon Aquino, on the same date, July 23, said that she wanted to keep her options open on what to do with the American military bases in the country and reiterated her advice to us Commissioners to stick to the work of writing a constitution and not usurp the legislative and policy-making functions of the representative institutions that we are called upon to create.

It is interesting to note that the United States Embassy in Manila has officially come out last July 21 with the statement that although the United States considers American military facilities in the country vitally important to its interests, nevertheless, the United States Embassy in Manila said, it – America, that is – will not insist on staying if the Philippine government decides to end the RP-US Military Bases Agreement in 1991.

This position was reported in the Embassy's publication, *U.S. Views,* in the wake of speculations that the United States would retain the bases, as it did in Guantanamo Bay, Cuba, despite efforts to remove them.

The United States does not wish to relocate its facilities at Clark and Subic, especially since other sites in the region are less strategically located and transferring the bases would entail a great deal of time and money, the report said.

The report added that if, however, the government of the Philippines exercises its prerogative to terminate the Military Bases Agreement after 1991, the United States would certainly not, as some allege, insist on staying as an unwanted guest.

It mentioned that seven Philippine administrations and eight American presidents had found the bases serving the mutual interest of both countries and a majority of Filipinos favoring the retention of the bases.

Quantifying the economic benefits that the Philippines derives from its military spending, the United States Embassy pointed out that there are about half-a-million direct and indirect jobs and over one billion added, as a result, to the country's economy.

All these, Madam President, emphasize the need for a most thorough, scholarly and continuous study of all aspects of the problem we are discussing here in our Constitutional Commission. The Filipino people must be prepared for the moment of truth when they will have to make a definite stand on the military bases issue consistent with their security and well-being.

Yes, I support the stand of Commissioner Francisco "Soc" Rodrigo. And I would also support, perhaps to be written in the Transitory Provisions of our Constitution, something like that when we shall have drawn up another treaty with America, hopefully more favorable than the treaties are, as far as we are concerned. This treaty will be presented to the Filipino people for their decision on whether or not to allow the retention of the American bases in this country.

Allow me to close with two or three more paragraphs, Madam President. In this endeavor, Philippine leaders cannot afford to be parochial or insular. While our primary responsibility is to the people, we cannot discharge that responsibility unless we deal objectively and justly with the interests of other countries that may be affected by our decisions, especially our ASEAN partners and Asian-Pacific neighbors, and the countries with whom we have friendly relations.

Madam President, I deeply appreciate the privilege and the honor the Chair and my respected colleagues have accorded this humble Representation so that he could contribute his bit to this debate on such an issue that will, for good or ill, conduce to ultimate survival or ruination of our country.

We pray to God Almighty that we will be guided in the right path.

Allow me to say in summation that I am for the retention of American military bases in the Philippines provided that such an extension from one period to another, shall be concluded upon concurrence of the parties, and such extension shall be based on justice, the historical amity of the people of the Philippines and the United States and their common defense interest.

I base my stand on two reasons: practical nationalism and economic realism.

But I join Commissioner Francisco "Soc" Rodrigo and others that nary a word about this issue should be written into the Constitution we are framing.

As former Ambassador Melchor Aquino wrote in his column last July 16 in *The Manila Bulletin:*

> If the bases do not conduce to the self-interest of the Philippines, the bases must go.
>
> If, on the other hand, the bases demonstrably serve the ends of the mutual security arrangements between the Philippines and the United States, the bases must stay.
>
> Public opinion surveys, which conclusively show that majority of the people favor the maintenance of U.S. military presence, should give pause to the Constitutional Commission. A constitutional ban on U.S. bases could very well lead to rejection of the draft Constitution in a national plebiscite.
>
> Senator Rodrigo has raised a resounding voice of wisdom. Other Members of the Constitutional Commission who adhere to the paramount order of reason should follow suit.

Lord, give us even men on this issue – Filipinos with hearts ablaze, with all rights to love and all wrongs to hate. For, O God, these are the Filipinos our country needs. These are the bulwark of the State.

Thank you, Madam President.

MR. RAMA. Madam President, I ask that Commissioner Alonto be recognized.

MR. GASCON. Madam President, before Commissioner Alonto begins his speech, I would just like to inform the whole body that this week is the "International Week of Peace" and tomorrow, September 16, is the "International Day of Peace." One of the projects of the United Nations which we are requesting all of the world to follow is the "Million Minutes of Peace" to begin at twelve noon everyday. It is but coincidental that as we are celebrating the "International Year of Peace" and the "International Week of Peace" we are discussing such very important topics as neutrality, bases-free and nuclear-free country.

So, I would like to make a motion that at twelve noon today, we begin that minute of peace.

THE PRESIDENT. Will the Commissioner please check that because the communication we received is September 16.

MR. GASCON. Yes, it begins tomorrow, Madam President. I was suggesting that we begin it today, Monday.

MR. TINGSON. Madam President, may I gladly and joyfully second that motion.

MR. RAMA. Madam President, I ask that Commissioner Alonto be recognized.

THE PRESIDENT. Commissioner Alonto is recognized.

SPEECH OF COMMISSIONER ALONTO

MR. ALONTO. Madam President, I was requested by one of our distinguished Commissioners to start and begin at 12:01 and with the Chair permitting, I will do so. *(There was silence for a minute of peace.)*

Now I can begin, with the Chair's permission. Madam President, I am not going to take much of the time of this august body. I rise to add my feeble voice to those of the distinguished Members of this Commission who opted to leave the issue of U.S. military bases to the government of the Republic to judge and dispose of. I am one with all correctly concerned Filipinos that the ideal state of affairs would be the absence of any foreign military bases within the territorial limits and jurisdiction of the country. However, under the present state of world affairs coupled with the unstable state of things in our country, to saddle our present government – and for that matter, future ones – with a constitutional provision that will not give them a sufficient ground to maneuver in the interest of the security and well-being of the country will be fatal to the sacrifices of our people to achieve a respectable place in the concept of free and independent nations.

Madam President, allow me to digress from the main theme of these remarks by quoting portions of an article entitled, "Con-Comedy of Errors," published in the September 20, 1986 issue of the resurrected *Philippines Free Press,* whose author, I have no doubt, is as patriotic as any Filipino worth the name, and I quote:

> Squabbles, walk-out, irrevocable resignation – These have, so far, characterized the deliberations of the Constitutional Commission created by President Aquino to draft a new Constitution to replace the provisional Freedom Constitution of the People Power Revolution under which she governs.
>
> That there would be disagreement over provisions of the proposed Charter should surprise no one. Unanimity of opinion is not human. It smacks of dictation. But to resign from the Commission because one's views do not prevail or walk out in a huff is to violate the basic term for one's appointment to the body: to argue one's case as well as one can but, if in the minority, to abide by the decision of the majority. Unless, of course, one could prove that the majority has been coerced or bought. Let the minority express its views, coherently if possible, and if overruled, ventilate them in the press. Thus, they may be heard and influence, if not the deliberations of the commission, the people in the plebiscite that would be held for the approval or disapproval of the draft. If their views remain those of a minority, however passionate and vocal, and the majority of the voters approve the draft just the same, would the minority then walk out on the people? The minority may be right; it need not be a jerk one . . . .

I had always been in the minority in the past process of nation-building in this country, but I have never been a jerk, Madam President.

I have suffered for my views as a minority in the course of our nation-building, but because I am in the minority and the majority has a better position than I have, I endured those repressions and sufferings because that is democracy.

The writer continued:

> There are the anti-U.S. bases proponents, but if they seriously believe in their position, why not submit it to a plebiscite, a separate one, where it could be properly debated instead of being sneaked in like a congressional rider? That is legislative swindle. Fool most of the people this time?

That is precisely what I am appealing to the distinguished Members of this august body, because the subject for which we have been giving a so passionate discussion is a subject which may very well and actually be dispensed with in the Constitution. We have other distinguished Members in this august body who have said that this can be left to the wisdom of the executive and the forthcoming legislative departments of this country.

Madam President, sometime ago after this Commission started with this task of framing a constitution, I read a statement of President Aquino to the effect that she is for the removal of the U.S. military bases in this country but that the removal of the U.S. military bases should not be done just to give way to other foreign bases. Today, there are two world superpowers, both vying to control any and all countries which have importance to their strategy for world domination. The Philippines is one such country.

Madam President, I submit that I am one of those ready to completely remove any vestiges of the days of enslavement, but not prepared to erase them if to do so would merely leave a vacuum to be occupied by a far worse type.

Our experience in the world history for the last two centuries has proven that there is no such thing as fence-sitting in international relations. And if, God forbid, by an act of this august body that is now framing the fundamental law of this country upon which we are going to build the future of this country we will choose to embody in this Constitution an abrupt and an unreasonable pronouncement to do away with the present military bases in this country, then, Madam President, I am afraid that we might be following the fate of some other countries.

Several countries in South and Central America, Asia and Africa have been cited by previous distinguished Members of this Commission, but nobody has ever thought of the fate that happened to one of our neighbors here in Asia, and that is Afghanistan. Madam President, Afghanistan has been a Muslim country from the early era of Islam. Its geographical position is very strategic and this is an important point to remember.

The people of Afghanistan, it is happy to note, are staunch Muslims. For the past 200 years Afghanistan served as a buffer state between Russia and Britain. They defended the British thrice and preserved their independence.

It was from the time of King Mohammed Zahir Shah that Afghanistan started some leanings towards the Union of Soviet Socialist Republics but the ties of working to keep the balance between USSR and USA did not go for long when King Zahir's brother-in-law, Sardar Daud Khan, under USSR inspiration, overthrew him with the help – how big, it is difficult to say – of the Russians. Interestingly when Daud started showing some independence, the Russians got a stooge, Taraki, and virtually ransacked Daud's palace in Kabul and butchered most of the royal family members. But soon, not fully satisfied with Taraki's achievements as a communist leader, the Russians encouraged Hafizullah Amin, Taraki's first deputy, to take over, and the story goes through the Russian sources that Amin invited the Russian troops to come to Afghanistan and in what number? Nearly a hundred thousand strong, fully equipped with the most lethal and modern weapons complete with tanks and armored helicopters. This was on the 27th of December, 1979. And the first thing that the communists' so-called invitees did was to kill Amin, the very person who was supposed to have invited them. Interesting and unexplainable indeed.

And the forces in Moscow then chose a more dependable stooge, one Barbrac Karmal who was a stern leader of the State and, perhaps, a dependable communist stooge who had no love nor any other consideration for either his people or his country. He was a robot who acted on the orders of others. He only wanted to please his masters and he spoke their language and faithfully carried out their orders, however bitter.

The Russians were killing the people right and left – they used napalm bombs, lethal gases and chemicals to poison their water; burned and destroyed their fields and did not hesitate to commit any inhuman act. The whole land was becoming a wasteland, a place of terror and fright, where there was nothing but darkness. The people were either compelled to bow to power or to flee from the land of their ancestors. There were more than 2.5 million refugees in Pakistan, about a million in Iran and thousands had dispersed all over the world.

Madam President, if we will not be more cautious, if the Filipino people will not realize the realities of world politics today, God forbid, we might suffer the same fate that these countries had in the past.

With this, I pray that we be properly guided in the deliberation on this very important subject of military bases in this country. I am against any foreign bases in this country, but we have to take into consideration the realities of the time.

May God guide us in our deliberation.

Thank you, Madam President.

SUSPENSION OF SESSION

MR. RAMA. Madam President, I move for a suspension until after lunch at 2:30 p.m.

THE PRESIDENT. The session is suspended until 2:30 p.m.

It was 12:16 p.m.

RESUMPTION OF SESSION

At 2:53 p.m., the session was resumed with the Honorable Hilario G. Davide, Jr. presiding.

THE PRESIDING OFFICER (Mr. Davide). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Gascon be recognized.

THE PRESIDING OFFICER (Mr. Davide). Commissioner Gascon is recognized.

SPEECH OF COMMISSIONER GASCON

MR. GASCON. Thank you, Mr. Presiding Officer.

I rise in support of the committee's proposal for a commitment to a zone of peace, freedom and neutrality, and a bases-free and a nuclear-free Philippines. I would like to begin by sharing with the body a story about an old man who was known as a staunch nationalist. He was also known world-wide to harbor anti-American sentiments. He had produced some articles that were published locally and internationally, calling for genuine national independence. An American journalist who had read this nationalist's articles decided to write a whole book in answer to these. She compared the Philippines to a young infant playing with a pair of scissors, and America to the mother whose responsibility it was to take that pair of scissors away, lest the child got hurt. It was a typical white-man's-burden argument. And she had come all the way to the Philippines to show this Filipino nationalist her book. She saw the Filipino in an occasion held in Luneta. The National Anthem was being played, yet this Filipino nationalist had his hat on. She went up to him and introduced herself. Then she asked him why he, a nationalist, still had his hat on with the National Anthem being played. He turned to her and said, "How can I remove my hat if I lost both my hands fighting your war in Vietnam?" With that, the American took her book and threw it into Manila Bay.

My dear colleagues, how many more limbs do we have to lose fighting other people's wars before we decide we have had enough? By the way, in a nuclear war, one loses more than just a pair of limbs. The effects of a nuclear war are devastating, such that the living actually envy the dead. There would be a nuclear winter – the smoke, the soot, the dust, debris and other particles produced by nuclear explosions and nuclear fires will encircle the globe and cause the blocking out of the sun for months. There would be no daytime, only twilight at noon. The darkness and absence of sunlight would stop or adversely affect the life-sustaining process of photosynthesis normally performed by plants. The world's temperature, especially in the interiors of continents, will drop to a freezing degree and kill most life forms on earth. Nuclear blizzards will scatter deadly long-lived radioisotopes released from a worldwide detonation of fission bombs. After several months of cold, darkness and lethal radiation, the sun will gradually reappear, but with a few survivors remaining, the living envying the dead. Already ravaged by malnutrition and radiation, injuries will now face bombardment by intense ultraviolet light because the preceding nuclear war had already destroyed a large portion of the ozone layer of the atmosphere that protects us from ultraviolet light.

All the existing nuclear arsenals will make this nuclear winter very possible. Worldwide nuclear arsenals contain 50,000 to 60,000 weapons capable of destroying all life on earth many times over. The total explosive force, at present, is equivalent to 1,500 to 2,000 megatons. One megaton, by the way, is one million tons of TNT – one million Hiroshima bombs or four tons of TNT for each person on earth. A one-megaton nuclear explosion can cause radiation, death and incapacitation to people within an area of at least 2,000 miles. The total energy yield of the United States' strategic weapons alone will amount to 7,000 megatons. It has been calculated by scientists using computer models that a minimum nuclear exchange of only 100 megatons, targetted at major cities, military bases, fuel depots and ammunition dumps, can trigger a nuclear winter.

Let us consider the bombing of Hiroshima, which would not be nearly as devastating as the nuclear winter. What had happened there? The city was annihilated in an instant; damage was exemplified by the composite effect of thermal radiation blast and radiation. Hiroshima was instantly levelled to the ground, the whole city turned into an inferno with the dead and wounded lying everywhere; almost all died in the flames. Countless people were burned to death or trapped under collapsed buildings and other materials; the rivers which flowed through the city were full of dead bodies of people who jumped into the river to extinguish the flames. The destructive power of the blast was so strong that people who were quite distant from the city were injured by flying glass. Throughout the whole day of August 6, 1945, a monstrous, tower-shaped, cumulonimbus cloud hung over the city. It brought rain showers from 9:00 a.m. to 4:00 p.m. In the beginning, the rains came in large, muddy, sticky, pitch-black drops, coarse enough to cause pain to the naked bombing victims. The "black rain" lasted for one to two hours; then normal rain followed. The "black rain" contained the muddy dust which was produced at the time of explosion and went in black smoke and soot resulting from the fires.

Since the rain contained very strong radioactivity, people who were exposed to it showed the same symptoms as those who were in the immediate vicinity but had survived the explosion. Also fish such as carp in ponds and catfish and eels in the rivers died and floated on the ponds and rivers. The cattle that ate the grass wet by the muddy rain developed diarrhea. Many people also suffered from the same symptoms because the city pipes were broken and the people had to drink well water. At the termination of the war, there were some seriously wounded bomb victims who committed suicide because of great pain or because of their frightful scars.

The population of Hiroshima when the bomb was dropped was 400,000; by the end of December 1945, it was 140,000. The civilians exposed to the A-bomb were 320,000. People within the radius of approximately four kilometers of the blast were seriously affected by the radiation.

The first signs of the body being affected were those of disturbances in blood-producing tissues of the bone marrow, the spleen and the lymph glands. Later on, the internal organs such as the lungs, the stomach, the intestines, the liver and the kidneys were also affected. Those with high degree of radioactivity were dead within a few weeks – a few days to two weeks. Those who were moderately affected by radioactivity developed severe symptoms after four weeks. There were no official relief measures for these victims until January 1953, eight years after the bombing of Hiroshima.

One must not forget that the United States unleashed the atomic bombs on Hiroshima and Nagasaki at a time when Japan was already on the verge of surrendering. There was no plausible military reason for the dropping of the bombs. The only reason could be political – to emphasize the strategic supremacy of the United States over its allies and to cow any opposition to it in the cold war. This was the beginning of the American tactics of negotiating from a position of strength, of utilizing weapons for mass destruction as a coercive instrument to secure American political and economic objectives. The bomb was used when there was no nation that could retaliate against the United States. The situation is different now. Even if the United States uses a minor part of its nuclear arsenal, escalation would surely follow and the consequence would be the destruction of the world.

Let us consider the consequences of a nuclear attack on the Philippines. There are four major targets in the Philippines: the San Miguel Communication Center, Clark Air Base, Subic Naval Base and the JUSMAG here in Quezon City. Simultaneous explosions in all port targets would leave 2.4 million Filipinos dead; 2.5 million injured from the immediate effects of the blast; 1.2 million dead from severe burns; 1.3 million dead from acute radiation sickness; 250,000 cases of benign thyroid nodules; 27,000 to 270,000 cases of spontaneous abortions of developing human embryos due to chromosomal damage by radiation; 184,000 to 840,000 cases of genetic disorders such as congenital cataracts, deafness, mental retardation and muscular dystrophy.

Let us reflect on these possibilities very deeply, my colleagues. Let us also remember that tomorrow, September 16, 1986, is the International Day of Peace and that 1986 itself is the International Year of Peace. Let us also reflect on the words of United Nations Secretary-General Javier Perez de Cuellar who, speaking on the demands of our times, said:

> We all constitute a global family. We are in this beautiful planet together. In these difficult times, the genius, labor and resourcefulness of the world's people should be directed towards the building of a better, safer, more stable and tranquil world. Civilization can only develop in an environment of peace.

Let us consider the situation of peace in our world today. Consider our brethren in the Middle East, in Indo-China, Central America, in South Africa – there has been escalation of war in some of these areas because of foreign intervention which views these conflicts through the narrow prism of the East-West conflict. The United States bases have been used as springboards for intervention in some of these conflicts. We should not allow ourselves to be party to the warlike mentality of these foreign interventionists. We must always be on the side of peace – this means that we should not always rely on military solution.

An article in today's issue of *The Manila Times* says, and I quote:

> It seems that our dream of peace has never been as elusive as it is today. Nevertheless, these are the times when we must seek encouragement and inspiration from God's divine words in Matthew 5:3-10.
>
> Happy are those who know they are spiritually poor, the Kingdom of heaven belongs to them;
>
> Happy are those who mourn, God will comfort them;
>
> Happy are those who are humble, they will receive what God has promised;
>
> Happy are those whose greatest desire is to do what God requires, God will satisfy them fully;
>
> Happy are those who are merciful to others, God will be merciful to them;
>
> Happy are the pure in heart, they will see God;
>
> Happy are those who work for peace, God will call them His children;
>
> Happy are those who are persecuted because they do what God requires, the Kingdom of heaven belongs to them;
>
> Happy are you when people insult you and persecute you and tell all kinds of evil lies against you because you are my followers;
>
> Be happy and glad for a great reward is kept for you in heaven because this is how the prophets who lived before you were persecuted.

But what about the Americans' view of our security being their personal responsibility and personal burden? Randolph David in his article, "The Meaning of Peace in Asia," exposes this type of thinking well. He says, and I quote:

> From the American point of view, it is they, the superpowers alone, who have the right to determine the requisites of global security. Accordingly, all other nations must align their respective national visions to the last larger perspective that is supposed to inform the superpowers' behavior.
>
> Furthermore, what type of security and peace have the superpowers produced? Peace that is perched precariously on the balance of terror, a peace that is fuelled by the nonstop production of nuclear weapons and by period exhibitions of calculated recklessness and superpower machismo.

I agree with Professor David's views. I firmly believe that we cannot and should not attempt to preserve peace through violence. That is much like attempting to preserve one's virginity through marriage.

Before any of my colleagues attempt to counter this view, claiming that we have had peace and security in our midst for the past years, I hope these colleagues first ask themselves these questions: What kind of peace was it? And what security did we have and for whom? I hope my colleagues do not refer to the deathly silence that the majority of our people were threatened into by the repressive Marcos regime, and which was cruelly termed "peace." I hope these colleagues do not refer to the protection given foreign and local elements in enjoying their incredible wealth appropriated from systematic exploitation of workers as "security." Yet, this is what these self-imposed guardians of our destiny have helped to create in our country.

In order to stage this zarzuela, the United States government showed its support for the martial law regime by heavily increasing United States economic and military aid to the Philippines after the imposition of martial law. Before the imposed dictatorship, United States military assistance totalled $80 million. In the three years after the imposition of martial law, this total was $166.3 million. It continued to increase after that by 106 percent. The United States bases, therefore, are springboards for intervention in our own internal affairs and in the affairs of other nations in this region.

On September 22, 1983, in the wake of the massive demonstrations following the Ninoy Aquino murder, the *New York Times* reported that the Pentagon now considered the Philippines an area that might require United States troops for direct military intervention, perhaps something like what they did in Granada. As I recall, there were not just communists or extreme leftists out in the streets at that time. There were also social democrats and democratic socialists like myself. There were also centrists, liberal democrats and right-of-center adherents out there. And the United States was ready to pounce on all of them, all of us in fact, at that point in time.

Thus, I firmly believe that a self-respecting nation should safeguard its fundamental freedoms which should logically be declared in black and white in our fundamental law of the land – the Constitution. Let us express our desire for national sovereignty so we may be able to achieve national self-determination. Let us express our desire for neutrality so that we may be able to follow active nonaligned independent foreign policies. Let us express our desire for peace and a nuclear-free zone so we may be able to pursue a healthy and tranquil existence, to have peace that is autonomous and not imposed.

It is argued that declaring these principles would tie the executive department's hands to the mandated Constitution. If that statement means that it should be very difficult to commit our country to a nuclear holocaust, then so be it. Others argue that such principles mean nothing. They claim the Philippines has such geopolitical importance that if the bases go, it shall be invaded by the Russians. So much for neutrality or so, they say. But let me pose these questions: Why was Thailand who had also kept a United States base once upon a time not invaded despite her being a neighbor to Kampuchea and Vietnam? And why have studies done even by the Foreign Affairs and National Defense Divisions of the United States Congressional Research Services show that the functions of the RP bases can be relocated and, therefore, redeployment options have been considered by the United States?

Let us stop harboring such degrading illusions of the Philippines as nothing but a valuable piece of military real estate for the United States. We have already unshackled the chains of a native dictatorship. Let us unshackle those of the foreign one as well.

Why does it seem that a lot of us fear freedom? Do we not realize that there are a lot of things beneficial to the Filipinos which we can do once we have been freed? For instance, we can begin to use these base areas for other more productive means. We have incurred so much opportunity costs by extending this land for American military use. According to Patricia Ann Paez, author of *The Bases Factor,* we have lost the opportunity of producing about 8,400,000 cavans of husked rice based on the conservative production estimate of 35 cavans per acre and two harvests per year. At the cost of $13 per cavan – this is the 1978 market price– the Philippines lost an estimated possible earning of $109 million.

Aside from this, several case studies and project analyses have strongly recommended converting the bases into either a commercial complex, an international airport, or the site of maritime-related industries and others.

As revealed in a study by Maria Socorro Diokno, the largest share of total contributions that the Philippine economy receives from Subic Naval Base comes from entertainment and recreation services. These are the so-called base-dependent industries, such as prostitution, drug trafficking, smuggling, et cetera. This is neither the type of economic development we Filipinos need nor want.

Why should we be accomplices to such immorality, economic wastage or a nuclear holocaust? How can we even conceive of framing a whole constitution and simultaneously avoid the relevant issue of the United States military bases? What good will a nicely made Constitution do, when there will be no one around, no survivors to enjoy it or remember it?

I would now like to appeal to the other Members of this Commission. If the Members would like to bequeath something to the youth, to their children and their children's children, let it not be a fear of freedom. Let it instead be a strength and courage to make that first step towards achieving genuine national independence and international peace. The solution, my friends, is unity. The Filipino people must join other peoples of the world in condemning as irrational and criminal the astronomical wastage of billions of dollars in military expenditures. In 1981 alone, the world military budget was $750 billion which could, by the way, wipe our unemployment in five years, feed 200 million hungry children for one year, send 800 million illiterates to school and provide clean drinking water for the whole world.

Given the real dangers of a nuclear holocaust, the struggle for independence, progress and development must be buttressed by a strong antiwar consciousness, for unless war is prevented, the progressive struggle of people will be meaningless. It is, therefore, imperative that all movements against imperialism be informed and motivated by a firm antiwar program. Only by combining the anti-imperialist issues with the movement against weapons of mass destruction can we all be assured of a future wherein different groups can work to attain their goals.

Let us remember the statements made by former Con-Con Delegate Tom Benitez who, by the way, sponsored Resolution No. 268, calling for the neutralization of the Philippines in 1971. The Philippines could be one peaceful country at peace and friendly with all nations, and the Filipinos could be the peacemakers of the Pacific. It is our reasonable and realizable national goal within our lifetime or within the succeeding generations. Mr. Benitez went on to say that the youth of our land do not want to become common fodder for conventional wars or organic matter for nuclear wars. They want to live their own lives and they want to live in peace.

My friends, we must stand firm and make our resounding commitment to peace a genuine commitment to life. We must definitely say "yes" to life and, therefore, we must necessarily say "no" to that madness called war and the foolishness of violence. Let us remember the words of Don Claro M. Recto on the primacy of survival:

> We must avoid war or at least involvement in one from which we cannot expect to survive.

My teachers, my mentors, my fathers, my elders, my friends, all we are saying is give peace a chance.

Thank you.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Tadeo be recognized.

THE PRESIDING OFFICER (Mr. Davide). Commissioner Tadeo is recognized.

SPEECH OF COMMISSIONER TADEO

MR. TADEO. Ginoong Presiding Officer, mga kagalang-galang kong kasama, ang sambayanang magbubukid ay kaisa ng iba pang nagnanais na manatili ang Section 3 at Section 4 sa ating Declaration of Principles o Pamamahayag ng Paninindigan o Simulain.

Para sa magbubukid, ano ba ang kahulugan ng U.S. military bases? Para sa magbubukid, ang kahulugan nito ay pagkaalipin. Para sa magbubukid, ang pananatili ng U.S. military bases ay tinik sa dibdib ng sambayanang Pilipinong patuloy na nakabaon. Para sa sambayanang magbubukid, ang ibig sabihin ng U.S. military bases ay batong pabigat na patuloy na pinapasan ng sambayanang Pilipino. Para sa sambayanang magbubukid, ang pananatili ng U.S. military bases ay isang nagdudumilat na katotohanan ng patuloy na paggahasa ng imperyalistang Estados Unidos sa ating Inang Bayan—economically, politically and culturally. Para sa sambayanang magbubukid, ang U.S. military bases ay kasingkahulugan ng nuclear weapon — ang kahulugan ay magneto ng isang nuclear war. Para sa sambayanang magbubukid, ang kahulugan ng U.S. military bases ay isang salot.

Kapag inalis natin ang Section 3 at Section 4, nangangahulugang ayaw pa nating humulagpos sa tanikala ng pagkaalipin; ayaw pa rin nating alisin ang tinik sa dibdib ng sambayanang Pilipino; ayaw pa rin nating alisin ang batong pabigat na patuloy nating pinapasan; ayaw pa rin nating alisin ang gumagahasa sa Inang Pilipinas; ayaw pa rin nating alisin ang panganib ng ating bansa; ayaw pa rin nating alisin ang salot.

Kapag inilagay natin sa Saligang Batas ang Section 3 at ang Section 4 na nauukol sa abrogation ng military bases at ng nuclear-free country, ang ibig sabihin nito'y kinakalag na natin ang gapos ng tanikala ng pagkaalipin. Kapag pinanatili natin ang Section 3 at Section 4, binunot na natin ang tinik sa dibdib ng sambayanang Pilipino. Kapag nanatili ang Section 3 at Section 4, inalis na natin ang batong pabigat, inalis na natin ang gumagahasa sa sambayanang Pilipino, sa Inang Pilipinas. Inalis na natin ang salot ng sambayanan kapag ang Section 3 at Section 4 ay inilagay natin sa ating Saligang Batas.

Makatuwiran lamang, sapagkat pahayag ng paninindigan o simulaing ito ang isang prinsipiyo, at napakagandang prinsipiyong dapat mailagay sa Saligang Batas na mag-aalis ng salot.

Nais kong basahin ang tungkol kay Ginoong Tomas Benitez na, sang-ayon sa ilang Constitutional Convention delegates, nagkaroon ng karamdamang tulad din ng naging karamdaman ng isa nating kasama. Ngunit bago siya binawian ng buhay ay isinulat niya ang tungkol sa neutrality na nais kong basahin sa inyo na sa palagay ko ay naaangkop na paksang basahin bilang parangal kay Con-Com Delegate Tomas Benitez.

Naaalaala ko pa ang sinabi ni Tom na mayroon daw tayong mga kababayang nagtatanong sa kanya kung bakit kailangan pang ilagay sa ating Saligang Batas ang tungkol sa neutrality. "Hindi ba iyon ay pagtatali sa ating mga kamay?" ang tanong daw nila. Ang pangangatuwiran ni Tom ay ang sumusunod:

> Katunayan nga ay pag-alis ng tali sa ating mga kamay kaya kinakailangang ilagay iyan sa Saligang Batas. Tayo ngayon ay nakatali sa Estados Unidos hanggang sa taong 1991, humigit-kumulang. Ito ay lubhang matagal. Ang daigdig ay mabilis na kumikilos at dapat tayong maging malaya sa pagharap sa buhay sa bawat sandali.
>
> Ang ating pagiging koloniya ng U.S.A. sa ilalim ng Commonwealth noong 1941 ay hindi nakapigil sa Hapon upang sakupin ang Pilipinas. At kung mananatili ang mga base militar ng U.S.A. dito sa atin, ano ang katuwiran natin at ano ang makapipigil sa mga makapangyarihang bansa kung sila ay gagamit ng mga bombang nuclear laban sa atin?

Binanggit ni Commissioner Chito Gascon and tungkol sa Resolusyon Blg. 268. Nais kong basahin ito ngayon, gaya noong sinasabi ko, upang buhayin ang alaala ng isang nagbigay ng isang napakamakabuluhang resolusyon noong 1971 Constitutional Convention.

KOMBENSYONG PANG-SALIGANG BATAS NG TAONG 1971

Republika Ng Pilipinas

RESOLUSYON BLG. 268

Iniharap ni Delegado Tomas Benitez

Junio 8, 1971

PALIWANAG

Likas sa mga Pilipino ang magmahal sa kalayaan at pambansang karangalan, at ang gumagalang sa pundamental na mga karapatan ng alin mang bansa o mamamayan. Umaasa rin tayo na ang ibang mga bansa'y igagalang ang ating mga karapatan at kalayaan at hindi lalapastanganin ang ating mga pambansang kalupaan.

Ang pagkakasakop sa atin ng mga Kastila at sinundan ng mga Amerikano, at ang patuloy na kalagayang koloniyal ng ating pamahalaan kahit na tayo ay naturingan nang malaya ay siyang nagtulak sa ating gobiyerno upang pumasok sa mga taliwas na mga kasunduang militar sa gobiyerno ng Estados Unidos na nagpapahintulot ng paglalagay ng kanilang mga base militar, nagkaloob ng mga labis na karapatan sa mga Amerikano at dahil dito'y nasangkot tayo sa pakikipagkasundong panlabas, kabit sa mga Amerikano upang makialam sa mga alitang militar ng ibang bansa – ang lahat ng ito'y salungat sa ating maalamat na kasaysayang mapagmahal sa kapayapaan at kalayaan.

Ang mga makapangyarihang bansa na ngayon ay interesado sa Timog-Silangang Asia ay ang Estados Unidos, ang Hapon, ang Unyong Sobyet, at ang Republika ng mga Mamamayang Intsik. Ngayon ang lalong tumpak na pagkakataon upang ang Pilipinas ay gumawa ng isang saligang pagpapahayag sa kanyang nilalayon na maging isang estadong neutral o walang kinakampihan at upang higit na madaling makuha natin ang unawa, pagsang-ayon at garantiya ng malalaking bansang iyan.

Maraming hirap ang ating haharapin, ngunit ang ginintuang pagkakataon ay narito na. At ang unang hakbang na dapat gawin ay ang pagdedeklara sa likas na karapatan ng Bansang Pilipino o sa kanyang kalayaan at pamamahala sa sarili. Ito ay dapat ipahayag sa ating bagong Saligang Batas.

Ang ibang mga Estado rito sa Timog-Silangang Asia, gaya ng Malaysia, Indonesia at Singapore, ay nagpahayag na rin sa pamamagitan ng kani-kanilang Ministeryong Panlabas ng kanilang hangad na maging neutral. Ito ay magiging sagka sa kanilang "balkanization" o pagkakahigop sa panig ng alin man sa mga malalaking bansang interesado sa rehiyong ito.

Ang Pilipinas ay isang kapuluang malapit sa lupalop ng Tsina, ngunit nakahiwalay dahil sa namamagitang dagat. At lalong malawak na dagat din ang namamagitan sa kaniya at sa lupalop ng Hilaga at Timog Amerika. Dahil dito, ang Pilipinas ay may higit na katuwirang manindigang neutral o walang kinakampihan dahil sa may likas siyang tanggulan sa paglusob ng mga sandatahang lakas sa katihan ng alin mang bansang magbalak niyan.

Ang pagsulat ng isang Saligang Batas na tunay na malaya at Pilipino ay kasalukuyang ginagawa ng Kombensyong ito – parang pinagtiyap ng pagkakataon. Kaya't tumpak at napapanahong dapat ipahayag sa Saligang Batas ang marubdob na nais ng ating mga kababayang sila ay naghahangad sa lahat ng mga bansa sa daigdig at dahil dito, ang ating bansa ay dapat manindigan sa prinsipyo ng niyutralisasyon sa habang panahon.

Dahil dito, iminumungkahi namin ang kagyat na pagpapatibay sa resolusyong ito upang ilakip sa bagong Saligang Batas ng Pilipinas.

(Lagda): Tomas E. Benitez
Delegado

KOMBENSYONG PANG-SALIGANG BATAS NG TAONG 1971

Republika ng Pilipinas

RESOLUSYON BLG. 268

Iniharap ni Delegado Benitez

ISANG RESOLUSYON NA NAGNANAIS MAGLAKIP SA PAMAMAHAYAG NG SIMULAIN NG ISANG PATAKARANG NAGTATAKDA NG PANG-HABANG PANAHONG NIYUTRALIDAD NG REPUBLIKA NG PILIPINAS.

Dapat pagpasiyahan ng Kombensyong Pang-Saligang Batas na ngayon ay nagpupulong:

Sapagkat kung isasaalang-alang ang kalagayang pangheograpiya, pampulitika, pangkabuhayan, pangmilitar, at pangdiplomasya ng Pilipinas, gayun din ang kasaysayan at pag-uugali ng mga Pilipino, ang kalagayang panghabang panahong niyutralidad, na ginagarantiyahan ng lahat ng mga bansa sa daigdig, ay siyang nararapat na katayuang panlabas ng Pilipinas upang manatili siyang malaya at nagsasarili;

Sapagkat ang ideyang panghabang panahong niyutralidad ay hindi bago, bagkus ito ay nakatakda sa Seksyon 11 ng Philippine Independence Act at ang Pangulo ng U.S.A. ay hinilingan ng Kongreso ng U.S.A. upang makipag-usap sa mga ibang bansa sa daigdig upang makipagkasundo ukol sa panghabang panahong niyutralidad ng Pilipinas;

Sapagkat ang isang Pilipinas na niyutral, na nakikipagkaibigan sa lahat ng mga bansa sa daigdig, ay nasa higit na mabuting katayuang humanap at tumanggap ng tulong buhat sa alin mang panig ukol sa kanyang kaunlarang pangkabuhayan, at maging sa kaanyuang lakas militar ukol sa pagtatanggol sa sarili;

Dahil dito, dapat pagpasiyahan, at ngayon ay pinagpapasiyahan, na ang sumusunod na patakaran ay dapat na maisama sa PAHAYAG NG SIMULAIN ng Bagong Saligang Batas:

ANG MGA MAMAMAYANG PILIPINO AY MATAIMTIM NA IPINAHAHAYAG ANG KANILANG MALAYA, MATATAG AT WALANG KATAPUSANG MITHIING MAKIISA SA KAPAYAPAAN SA LAHAT NG MGA BANSA AT HINDI MAKIDIGMA SA KANINO PA MAN LIBAN LAMANG KUNG IPAGTATANGGOL SA SARILI AT DAHIL DITO PANGANGALAGAAN NAMIN ANG PANGHABANG PANAHONG NIYUTRALISASYON AT PAKIKIPAGTULUNGAN SA LAHAT NG MGA KAIBIGANG NASYON.

Ano ba ang batayan ng sambayanang magbubukid tungkol sa U.S. military bases? Hindi kami abogado ngunit sa simpleng pagbabasa ng ating kasaysayan, ang kalagayan ng Con-Com sa kasalukuyan ay tulad sa isang doktor na sumusuri sa isang maysakit. Upang malaman niya ang pinag-ugatan ng karamdaman ng maysakit, kinakailangang alamin niya ang kasaysayan nito. Gayundin ang ginagawa natin sa paksa ng foreign military bases. Inaalam natin ngayon ang pinag-ugatan nito. Sinasabi nga: No investigation, no right to speak. Dahil dito ano ang mga batayan ng mga magbubukid? Una, ito ay null and void – ang military bases agreement ay illegal and immoral.

Hindi maipagkakailang alam na nating noong October 17, 1933, nilikha ang Hare-Hawes-Cutting Act na tinanggihan mismo ng ating lehislatura – ng Philippine Congress. Nais kong sabihin sa inyong halawin natin ang sinabi tungkol sa alaala ni Manuel L. Quezon. President Quezon recalled that President Roosevelt agreed to the fact that the maintenance of American military reservation after independence would make independence a farce. Habang naririto ang U.S. military bases, ang kalayaan ng Pilipinas ay isang huwad na kalayaan.

Naaalaala ko ang sabi ng isang political detainee sa akin: "Jimmy, mayroong mga malaya, mayroong mga nasa labas ng piitan ngunit sila'y bilanggo pa rin. Oo, kami'y nakakulong, ngunit kami'y malaya na."

Pagkaraan ng Hare-Hawes-Cutting Act, dumating ang Tydings-McDuffie Law na nagsasabing maaari lang maging reserbasyong nabal ang Pilipinas. At pagkaraan ng dalawang taon, ipaiiral na ang niyutralidad. At ang Tydings-McDuffie Law ay naging bahagi ng Konstitusyon ng 1935.

Ngunit noong June 29, 1944, sinabi ng U.S. Congress, sa pamamagitan ng Resolution No. 93, na dapat manatili ang U.S. military bases sa Pilipinas. At pagkaraan nito, noong July 28, dumating naman ang Philippine Congress Resolution No. 4 na nagbibigay ng karapatan sa Pangulo ng Commonwealth ng Pilipinas na makipagnegosasiyon para sa Amerika.

Isinasaad nang malinaw sa Section 1 ng ating Declaration of Principles ang ganito:

> Sovereignty resides only in the Filipino people. The consent of the people is indispensable for the validity of the bases agreement.

That consent had never been given or even sought. Pagkaraan ng digmaan, ang sabi ng Amerika: "Hindi namin kayo bibigyan ng kalayaan; hindi namin kayo bibigyan ng war damage payment kapag hindi ninyo pinanatili ang U.S. military bases sa inyong bansa." Pagkaraan nito, hindi pa rin tumigil ang kanilang kasamaan.

Pinatanggap sa atin ang Bell Trade Act na pinairal na mula pa noong 1909. Pagkatapos isinama pa ang parity rights, ngunit makikita natin sa simpleng pagbabasa lamang, bagamat hindi kami abogadong magbubukid, na ang mga ito ay illegal at immoral. Ngunit paano tumagos ang kamandag ng salot ng U.S. military bases sa ating political system? How do these bases affect our political life? The desire to retain the bases has led the U.S. government time and again to interfere in our internal political affairs.

U.S. Senator Fulbright foresaw this years ago when he said:

> Is it not inevitable that because our presence there and with this purpose, we would always use our influence for the preservation of the status quo? We will always resist any serious change in the political and social structures of the Philippine government, a policy which is very likely to be in the long run detrimental to the people of the Philippines.

In fact, the $500 million in military aid given to the Marcos government has resulted in greater militarization of our society. As long as we allow the U.S. to maintain bases here, we will never have full sovereignty; we will never be able to institute the reforms and changes that our people need and demand.

Mga kasama, alam ba ninyo ang ulat ng Task Force Detainees? Iniulat nila ang bilang ng mga political arrest mula 1977 hanggang 1984 upang ipakita lamang ang militarisasyon. Bago ideklara ang martial law, mayroon tayong 62,000 mga kawal; ngayon, 300,000 na, kasama ang paramilitary. Ngunit tingnan ninyo kung sinu-sino ang apektado sa kabuuang bilang ng mga political arrest at salvaging mula 1977 hanggang 1984: 14,308 ang bilang ng mga political arrest -- 71 percent na mga magsasaka at manggagawang bukid. Dalawang libo apat na raan at animnapu't pitong mga magbubukid o 52 porsiyento sa kabuuan ang apektado ng "salvaging." Kayat makikita ninyo kung paano apektado ang sambayanang magbubukid.

Tingnan naman natin kung paano gumapang ang kamandag ng U.S. military bases sa ating economic life. Do the bases contribute to our economy? No, they contribute to the maldevelopment of our economy. Marahil makabubuting basahin natin kung saan napupunta yaong $900,000,000 na rental ng U.S. bases. Ito ay isinulat ni Luis Mauricio noong Huwebes, ika-3 ng Hulyo, 1986, sa kaniyang pitak sa *Pahayagang Malaya,* na may pamagat na "Who Needs Enemies? " Ang sabi niya:

> The "assistance"/rental package of $900 million promised by the U.S. in connection with the bases agreement, as amended in 1983, was broken up into three component parts, namely:
>
> (a) $300 million as foreign military sales credit;
> (b) $125 million as military assistance;
> (c) $475 million as economic support fund.
>
> Only the second and third components, involving a total of $600 million, may be considered effective "assistance" or rentals.
>
> The first component is credit available to the Philippines if she wanted to buy military weapons, planes, tanks and the like. But that is a debt to be paid, and to be paid with

> interest. By no means can it be deemed assistance or rental. If anybody is being assisted at all, it is the U.S. military arms and suppliers manufacturers.
>
> The second component consists of assistance in kind (outmoded guns and military transport used in or surplus from the Vietnam War) and pay and allowances of American military advisors and weapons training officers.
>
> The third component is intended to finance social and economic projects to improve the living conditions in Angeles and Olongapo cities and other areas surrounding the U.S. bases. This money is subject to the joint control of the Philippine and American governments, through their respective representatives . . .
>
> In essence, therefore, it is this (and only this) third component – the economic support fund – which is the rental for the bases; and even then the supposedly independent Philippines does not have the final say on how it could be spent. That is why, when $200 million of the total $475 million of this third component was delivered by Shultz recently, Doy Laurel had to sign the agreement containing the terms governing its availment, as dictated by the U.S. Congress.
>
> Thus, as earlier stated, the "security assistance" under the military bases pact is not only a misnomer; the amount involved in the package is pure deception, too.

Nais ko lamang basahin sa inyo ang isang sulatin tungkol sa employment:

> The U.S. Embassy claims that American facilities in 1985 employed 20,581 full-time workers, 14,249 contract workers, 5,064 domestics and 1,746 concessionaires for a total direct employment of 41,680. It also said that annual salaries of the Filipino workers total $82,885,042 or about P1.658 billion, the second largest payroll in the Philippines after the Philippine government.
>
> The number of Filipino employees and workers in the bases does not even amount to 5 percent of the 1.18 million persons employed by the Philippine government. It is therefore misleading to say that the U.S. base ranks second only to the Philippine government as the biggest employer. The bases also employ less than 1 percent of the Philippine non-agricultural labor force. (Paez, p. 165)

The U.S. pays Filipino base workers less than foreigners working in other American bases in other countries. Ito ang napakalungkot sa Filipino. Hindi ko maunawaan ang sovereignty na sinasabi sa mga librong binabasa ko. Ito raw ay supreme, uncontrollable power, absolute, comprehensive, indivisible, inalienable – nandoon nang lahat, walang hanggan. Ngunit ang napakasakit, ang Filipino rito ay parang isang baboy-damong pinapatay. Hindi mo maintindihan ang sobereniya – kung paanong ang Filipino ay tulad ng isang baboy-damo sa kaniyang sariling bayan. The U.S. pays Filipino workers in the bases only one-half of what it pays Korean workers, one-fourth of what it pays Japanese workers, and one-eighth of what it pays U.S. workers doing the same kind of work with the same productivity.

Marahil makabubuting tingnan natin ang lupain; nais kong ipakita sa inyo ang kabuuang lupaing sinasakop ng bases upang makita natin ang relasyon nito sa agrikultura. Narito ang kabuuan:

1,000	hectares	– Camp O'Donnel
20,000	"	– Crow Valley Weapon's Range
55,000	"	– Clark Air Base
150	"	– Wallace Air Station
400	"	– John Hay Air Station
15,000	"	– Subic Naval Base
1,000	"	– San Miguel Naval Communication
750	"	– Radio Transmitter in Capas, Tarlac
900	"	– Radio Bigot Annex at Bamban, Tarlac

Ang kabuuang sukat ng lupa ay 94,200 hectares; ang sukat ng lupa sa Central Luzon ay 1.2 to 1.6 hectares. Gawin na nating 1.5 hectares ang sinasaka ng bawat isang pamilya. Ang maaaring bigyan ng hanapbuhay ng lupain sa mga baseng ito ay 62,800 farmers; ang bilang ng nagtatrabaho sa base ay humigit-kumulang sa 42,000. Ang bilang ng magbubukid sa Central Luzon ay 17 percent kung gagawin itong lupang sakahan. Napakayaman ng lupang ito sapagkat ito ay tinatawag na laman ng lupa, nandirito ang magagandang lupa.

Ginang Pangulo, bilang ina ng Con-Com, ipinaaabot ko sa inyo ito: Sabi nga ni Father Cullen, sa quarter million na mamamayan ng mga baseng ito, 16,000 ang prostitutes, aged 9 to 14 – 16,000 institutionalized prostitutes; 71 percent ng mga kabataang kalalakihan sa base militar ay drug addicts; 18 percent ng mga kabataang kababaihan ay drug addicts. Ang sabi nga ni Father Cullen, ito ay isang "economic disaster, dehumanization." Anong dolyar ang maaari mong ipalit dito? Ang mga bata rito ayaw maging Filipino; hindi malaman kung sino ang ama. Ang nakikinabang ay ang mga kapitalista at club owners. Anong dolyar ang maaari mong ipalit sa isang dehumanization?

Noong panahon ni Ginoong Marcos, napoot tayo sa paglabag niya sa karapatan ng tao. Ngayon, pinaganda natin ang Bill of Rights sa pagsasama ng panukalang ipagbabawal ang torture, hamletting at pagpapanatili ng mga safe houses. Kung ang isang tao ay may paniniwalang pulitikal, hindi na siya puwedeng ikulong. Ngunit hindi pa tayo nasiyahan; lumikha pa tayo ng Commission on Human Rights. Mga kagalanggalang na kasama sa Constitutional Commission, ang nilalabag ng foreign military bases ay ang karapatan ng buong sambayanang Pilipino. Ang iba nating kasama ay ibig tanggalin ang Sections 3 and 4. Baka isumpa tayo ng kasaysayan sa gagawin nating ito. Hindi ba't hindi natin malaman ang gagawin sa human rights, pagkatapos karapatan ng buong sambayanang Pilipino ang nilalapastangan, ibig pa nating tanggalin? Inuulit ko, mga kasama, isusumpa tayo ng kasaysayan.

Tagahanga ako ng aking kababayang Francisco "Soc" Rodrigo. Noong siya ay kumandidato sinundan ko ang lahat ng pinuntahan niya. Noong siya ay nakipagtalo kay Ginoong Claro M. Recto tungkol sa *Noli Me Tangere* at *El Filibusterismo,* binatikos siya ni Damian Soto sa radyo. Lumaban ako at ipinagtanggol ko ang aking kababayan. Kaya noong ako ay mapunta dito sa Commission, agad ko siyang binati nang kung ilang beses sapagkat ako ay tagahanga niya.

Para sa akin, ang tilamsik ng diwa ay pagkahulagpos sa pagkaalipin sa panahon ng diktadura. Ngunit alam nating hindi na gawa ng diktadura ang pagkaalipin sa sambayanang Pilipino. Ayon kay Commissioner Nolledo, ang nasa likuran ng diktadura ay si Uncle Sam. Ito ang nagpalubha sa kanya; ito ang kumunsinti at sumuporta sa kanya. Inuulit ko, ang ibig sabihin ng tilamsik ng diwa ay pagkahulagpos sa pagkaalipin sa mga dayuhan.

Mr. Presiding Officer, nang sabihin ng Kasamang Rodrigo na tanggalin ang Sections 3 and 4, bilang taga-Bulacan ako ay nalungkot sapagkat nakasaad sa Balintawak billboard ang mga sumusunod: "Tuloy kayo sa Bulacan, lalawigan ng mga dakilang bayani, naggagandahang mga dilag at mayayamang bukirin." Labis akong nalungkot dahil ang tilamsik ng diwa ay baka mauwi sa bula. Ito ay sarili kong opinyon.

Mga kasama, gagawi naman ako sa national security. Nakalulungkot ang ating bansa, Mr. Presiding Officer. Ang sabi ng aking kaibigang taga-Israel napakayaman daw ng bansang Pilipinas, samantalang ang kanilang bansa ay puro disyerto, walang tubig, pero hindi nila sinasapit ang sinasapit natin ngayon. Napakayaman daw ng ating bansa: 30 billion tons and likas na yaman, 12 billion tons ang metallic at 18 billion tons ang non-metallic. Tayo ay panlima sa ginto at tanso sa buong mundo; naririto nang lahat ang likas na yaman. Napakayaman ng ating ilog, 400 million hectares. Tayo ang may pinakamahabang baybayin sa buong mundo. Humuhuli tayo ng uri ng isdang pinakamarami sa buong mundo, 2,400, at humuhuli tayo ng 85 kilos na isda sa bawat pamilyang Pilipino. Subalit ang isang pamilyang Pilipino ba ay kakain ng kahit isang kilong galunggong samantalang ang nakalaan sa kanila ay 85 kilos? Napakayaman ng ating mga lupa. Mayroon tayong tag-ulan, tag-araw at wala tayong taglamig. Mayroon tayong Peñaranda Dam, Pantabangan Dam, Pampanga River, Angat River at Polangui River. Talagang napakayaman ng ating lupa – kapag itinanim natin ang buto, tutubo agad. Ngunit ang bayan ng aking kaibigan ay puro disyerto, walang tubig. Ang sabi niya kapag ibinigay daw natin ang Pilipinas sa Israel, sa loob ng limang taon gagawin daw nilang pinakamakapangyarihang bansa ang Pilipinas sa buong Asya at sa buong mundo. Napakayaman daw natin at kahit na raw 200 milyong mamamayan man ang ilagay sa Pilipinas, walang magugutom kahit na isang pamilya, pero sa 55 milyong tao raw nagugutom na ang ating sambayanan. Ang dahilan daw ay wala tayong tiwala sa ating sarili. Sinasabi daw nating nasyonalismo, pero hindi naman daw nananalaytay sa dugo natin iyon sapagkat tayo raw ay "dependent." Wala raw tayong tiwala sa ating kakayahang umunlad at magpakadakila.

Ipakita natin ang isang konkretong pangyayari, Mr. Presiding Officer. Sino ang tumalo sa Amerika, na pinakamakapangyarihang bansa sa buong mundo, sa Vietnam? Ang mga Vietcong na gumamit ng guerrilla warfare ang tumalo sa kanila. Ngunit tanungin natin ang ating sarili: Saan natuto ng guerrilla warfare ang mga Vietcong? Sa Pilipinas sila natuto, Mr. Presiding Officer.

Noong panahon ng giyera, sinabi ni Sir Winston Churchill na ang Pilipinong gerilyero ang pinakadakilang gerilyerong nabuhay sa balat ng lupa. Panginoon kong Diyos, pinakadakila raw tayong gerilyerong nabuhay sa balat ng lupa. Alam ba ninyo kung saan simulang natuto ng guerilla warfare ang mga Vietcong? Sa Sorsogon, Mr. Presiding Officer. Sa tunog lamang ng kampana, alam na nila ang posisyon ng kaaway. Ngayon, sinasabi nating hindi natin kayang pangalagaan ang ating bansa. Bakit kailangan natin ang U.S. military bases? Ang tumalo sa Amerika ay ang ating pamamaraan. Heto na naman tayo, walang tiwala sa sarili.

Mga kasama, kapag naririnig ko ito, labis akong nanlulumo. Binibigyan kong diin lagi sa inyo: ang ibig sabihin ng nasyonalismo ay ang pananalig at pagtitiwala natin sa kakayahan ng Pilipinong umunlad at magpakadakila.

Dito ko tatapusin ang aking mga salita. Kung mapapansin ninyo, wala akong binabanggit dito kung hindi ang ating mga bayani at si Hesukristo. Ano ang sabi ni Dr. Jose Rizal? Aniya, upang ang mga Pilipino ay sumulong, kinakailangang tumulo sa kanilang mga ugat ang diwa ng paghihimagsik sapagkat ang pagsulong ay ang pagbagsak ng nakaraan sa pamamagitan ng kasalukuyan, ang pagwawagi ng bagong kaisipan sa ilalim ng matandang kinamihasnan.

Sinasabi sa revolutionary verse ng Lukas 4:11 ang ganito: "Ang mga api ay lalaya na, ang mga bihag ay liligtas na." Kapag inilagay natin sa Saligang Batas ang panukalang wala nang military bases at nuclear weapons na ilalagay dito sa Pilipinas, ang api, ang sambayanang Pilipino, ay lalaya na. Ang sambayanang Pilipino ay maliligtas na sa kuko ng mga dayuhan. *(Applause)*

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Davide). The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Quesada be recognized.

THE PRESIDING OFFICER (Mr. Davide). May we request the audience not to give any sign of approval or disapproval?

Commissioner Quesada is recognized.

SPEECH OF COMMISSIONER QUESADA

MS. QUESADA. Mr. Presiding Officer, distinguished Members of this Commission:

I wish to take advantage of the generosity of the Chair in allowing each one of us who cares to speak her or his piece on the very critical issues of neutrality, nuclear-free zone and foreign military bases in the Philippines.

However, I rise to speak without any illusion that most of my colleagues in the Commission will still change their minds come voting time. The drift in the voting on issues related to freeing ourselves from the instruments of domination and subservience has clearly been defined these past weeks.

Here and outside, we have publicly made our stand on the issues now under deliberation. I have learned to be less emotional and feel more philosophical about many things and have adopted the line, "Madam, this is for the record only," knowing that many have already confirmed their positions and arguments. It does not matter, in any view, whether these positions defy logic and rationality and do not serve the interest of the majority of our people.

So for the record, Mr. Presiding Officer, I would like to declare my support for the committee's position to enshrine in the Constitution a fundamental principle forbidding foreign military bases, troops or facilities in any part of the Philippine territory as a clear and concrete manifestation of our inherent right to national self-determination, independence and sovereignty.

Mr. Presiding Officer, I would like to relate now these attributes of genuine nationhood to the social cost of allowing foreign countries to maintain military bases in our country. Previous speakers have dwelt on this subject, either to highlight its importance in relation to the other issues or to gloss over its significance and make this a part of future negotiations.

The social dimension of the military bases issue, however, is just as important as the other aspects, for here we are talking of people, tens and thousands of Filipinos, the quality of whose lives is directly affected by the presence of military bases. I am speaking of the degradation of human values, the loss of human dignity and self-respect, the slow wasting of human lives attributable to sex and drug abuse-related diseases that are the concomitants of military bases here or anywhere else. How can we be concerned about the right to life of the yet unborn and not be concerned with the living, those already certified as having souls, who are slowly being dehumanized and destroyed as a consequence of pandering to the baser instincts of man?

I cannot help but be emotional this morning when somebody said that the evil of prostitution is something like a necessary evil. The term "necessary evil" dates back to Spanish colonialism when Jose Rizal, in *Noli Me Tangere,* attacked the opportunist position of certain Filipinos, through Crisostomo Ibarra, in arguing that the tolerance for friar and military abuses should be seen as a necessary evil when the nationalist movement was rising. Also, I begin to question the words "common good" when they are used to be an excuse for many of the things that we enshrined in this Constitution. "Common good" has been so prostituted for self-serving interest, and it has totally lost its essence.

How much has it really cost the Filipinos to have these American bases in the Philippines? Can the claimed benefits justify or make up for the moral and social damages inflicted on our people? Not even the American authorities deny the sad fact that social and moral problems do develop in the areas close to their bases. But such problems are just unfortunate realities near any base, not just American bases. The situation reminds us of a young woman in Thailand who told an American soldier, "Joe, whenever yu gip me yuh dolah, yu gip me yuh syphilis and gonorrhea."

Prostitution, like any industry, thrives on the principle of supply and demand. Where there is high demand, the supply of prostitutes proportionally increases.

In Olongapo, prostitutes account for about 10 percent of the city's population. There are at present 16,000 registered hospitality girls, in addition to some 3,000 waitresses who work on the side as nonregistered prostitutes. Apart from adult prostitutes, the regional development council officials in Central Luzon reported that children aged 9 to 13 were also found engaged in the flesh trade.

In Angeles City, there are about 4,500 hospitality girls officially defined as "female workers in amusement centers," such as ago-go dancers, waitresses, hostesses, entertainers, chambermaids, show girls, masseuses and barmaids. Most of these women, according to government surveys, come from the most depressed regions like Eastern Visayas and Bicol who were lured by the prospects of earning easy money from American servicemen.

One of the natural by-products of prostitution is the outbreak of venereal diseases in the Philippines which has already reached an epidemic proportion, with a prevalence rate of 15.22 percent registered, surpassing the first half of 1980, the tolerable 4 percent normal rate. Manila has the highest number of reported cases with 6,455, followed by Angeles City with 3,997 and Olongapo with 2,948. Of some 7,000 hospitality girls in Angeles City, 17 percent or a total of 1,190 were also reportedly suffering from sexually transmitted diseases. Health officials maintain that these venereal diseases or sexually transmitted diseases, including penicillin-resistant gonorrhea, were brought here in the country by the American GIs. American servicemen are rarely checked before they set foot on the city streets, unless they report some physical ailments beforehand. Few sailors, however, report sexually transmitted ailments because it would jeopardize their chances for rest and recreation after months at sea. According to regional development council officials, the number of hospitality girls seeking treatment for sexually transmitted diseases (STD) rises in proportion to the number of ships docking or servicemen on rest and recreation in the cities of Olongapo and Angeles. According to official figures, two million servicemen go through Subic Naval and Clark Air Bases every year.

Another consequence of the presence of foreign bases in our land is the increase of "Americans " or, in the Olongapo street lingo, "souvenir babies." These are the abandoned children of prostitutes and unwed Filipinas who consort with American servicemen. About one "souvenir baby" is born everyday. This does not include the babies born out of legitimate marriages who are loved and pampered by their grandfathers whose fair daughters they allow to marry foreigners. These children are bastards, products of an unjust situation, who are despised, teased, sneered at, oppressed and hidden. They are part of the growing number of the "wretched of the earth" in a country that prides itself as the only Christian country and bastion of American-style democracy in this part of the world.

Existing rehabilitation centers and social welfare agencies can hardly cope with the needs of these abandoned children, a problem that has become a permanent feature of American military presence.

The prevalence of drug-related problems around the bases has alarmed even the American authorities that it necessitated them to assist in its control.

From 1972 to 1975, a total of approximately U.S. $1.1 million was extended by the U.S. International Development for Narcotics Control Assistance to the Philippines. According to the U.S. State Department, Manila, Olongapo and Angeles have the most acute drug addiction problem. This phenomenon, again, is directly attributable to the presence of the bases.

The Constabulary Anti-Narcotics Unit (CANU) of Region II, Central Luzon, reported that the U.S. naval and air facilities provide illicit drug traffickers with a lucrative market and a route for smuggling dangerous drugs in and out of the Philippines. In its 1982 year-end report, CANU disclosed that Clark Air Base had been used in shipping locally grown marijuana to Kadean Air Force Base in Japan.

Fr. Shay Cullen, a Columban priest who runs Prevention and Rehabilitation of Drug Abusers (PREDA), a drug rehabilitation center based in Olongapo City, cited a 1982 survey which revealed that 77.92 or 8 out of 10 fourth year high school boys in this city were using dangerous drugs which came from American servicemen.

Racketeering and organized crime also flourish in these base communities. The incidence of crime in the base communities is also quite high. A government study disclosed that in 1982, the crime rate in Olongapo City rose by 16.41 percent per 100,000 residents. Constabulary authorities said that the crime rate in the city increases by 15 percent when U.S. navy ships are in port.

In Angeles City, for example, a local gang engaged in the "protection" racket that preys on nightclub and brothel operators reportedly reaps an estimated U.S. $1 million annually.

This prevalence of crimes in the communities around the bases reflects the growing deterioration of moral and social values of the people in these cities.

Other serious problems that stem from the bases are: Illicit PX trading where consumer goods from the post commissary system enter the Philippine market in spite of customs barriers and illegal logging by unnamed American military officials whose operations have been repeatedly denounced in the past by the Ministry of Justice.

Mr. Presiding Officer, I feel that banning foreign military bases is one of the solutions and is the response of the Filipino people against this condition and other conditions that have already been clearly and emphatically discussed in past deliberations. The deletion, therefore, of Section 3 in the Constitution we are drafting will have the following implications:

First, the failure of the Constitutional Commission to decisively respond to the continuing violation of our territorial integrity via the military bases agreement which permits the retention of U.S. facilities within the Philippine soil over which our authorities have no exclusive jurisdiction contrary to the accepted definition of the exercise of sovereignty.

Second, consent by this forum, this Constitutional Commission, to an exception in the application of a provision in the Bill of Rights that we have just drafted regarding equal application of the laws of the land to all inhabitants, permanent or otherwise, within its territorial boundaries.

Third, the continued exercise by the United States of extraterritoriality despite the condemnations of such practice by the world community of nations in the light of overwhelming international approval of eradicating all vestiges of colonialism.

Fourth, a tacit approval to the validity of the military bases agreement contrary to historical data reflecting the fact that the Philippine government was pressured to consent to the same without the required consent of the sovereign people as reflected in a plebiscite (reference to Section 3 of the First Ordinance appended to the 1935 Constitution which, in effect, elevated the provisions of the Tydings-McDuffie Act to the level of constitutional provisions which can be amended only through the defined constitutional standards set forth in in the 1935 Constitution).

Fifth, the tacit approval to the acts of the deposed dictator Mr. Marcos in entering into negotiations regarding the bases by virtue of a self-serving provision found in the 1973 Marcos Constitution which permitted him to enter into treaties and similar international agreements for the sake of national security.

Sixth, the deification of a new concept called pragmatic sovereignty, in the hope that such can be wielded to force the United States government to concede to better terms and conditions concerning the military bases agreement, including the transfer of complete control to the Philippine government of the U.S. facilities, while in the meantime we have to suffer all existing indignities and disrespect towards our rights as a sovereign nation.

Seventh, that this Constitutional Commission will concede to the subtle blackmails of the Reagan administration regarding our economic recovery if we fail to maintain status quo particularly to that affecting the bases agreement.

Eighth, the utter failure of this forum to view the issue of foreign military bases as essentially a question of sovereignty which does not require in-depth studies or analyses and which this forum has, as a constituent assembly drafting a constitution, the expertise and capacity to decide on except that it lacks the political will that brought it to existence and now engages in an elaborate scheme of buck-passing.

Ninth, failure to appreciate that a position of nonalignment and neutrality is, in fact, giving the Philippine government more options in defining our developing foreign relations as a newly born nation with other sovereign states and, to state otherwise, that a position of neutrality will place our foreign policy in a straitjacket, which can be valid only if we have reached the conclusion that U.S. foreign policy should be the policy that must be adopted by the Philippines. Noteworthy is our country's selective posture to international incidents whereby we closely parallel the stance taken by the United States.

Tenth, a cavalier attitude of this Commission to treat the degrading social costs of the bases – prostitution, drug trafficking, "souvenir babies," sexually transmitted diseases (STD), discrimination in work and pay, et cetera as mere problems of law enforcement rather than base-related issues.

Mr. Presiding Officer, this is the truth, the unvarnished, unalloyed truth that many of us, in the comfort of our middle-class existence, refuse to confront directly. But we are framing a constitution and we can, if we have the political determination, write a new social contract that will rescue our society and bring order, justice and human dignity to our people.

Without any doubt we can establish a new social order in our country, if we reclaim, restore, uphold and defend our national sovereignty. National sovereignty is what the military bases issue is all about. It is only the sovereign people exercising their national sovereignty who can design an independent course and take full control of their national destiny.

Thank you, Mr. Presiding Officer.

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Davide). Commissioner Bacani is recognized.

BISHOP BACANI. May I just ask Commissioner Quesada whether she was referring to me when she said that somebody this morning stated that prostitution is a necessary evil?

THE PRESIDING OFFICER (Mr. Davide). What is the pleasure of Commissioner Quesada?

MS. QUESADA. I suppose Commissioner Bacani was the only one who talked about prostitution.

BISHOP BACANI. Mr. Presiding Officer, Commissioner Quesada was right there in front of all of us when I clearly denied having said that, and she can consult the record. I wish she would speak the whole truth because I told Sister Christine Tan that I never said such a thing, and she can verify the record for that.

MS. QUESADA. That was the message that reached many people.

BISHOP BACANI. If that was the message that reached Commissioner Quesada, maybe my parable in yesterday's mass applies to this.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Padilla be recognized.

THE PRESIDING OFFICER (Mr. Davide). Commissioner Padilla is recognized.

SPEECH OF COMMISSIONER PADILLA

MR. PADILLA. Mr. Presiding Officer, on this issue of U.S. military facilities in the Philippines, many views have been expressed by the media through editorials, and many opinions have been restated by the Commissioners who preceded me. The alternatives seem to be:

1) immediate termination of the 1947 RP-US Bases Agreement and its successive renewals;

2) irrevocable removal of said bases after their expiration in 1991;

3) retention only until 1991;

4) renegotiation in 1988 for its continuance after 1991; and

5) keeping options open for negotiation even after 1991, which may be either removal or retention.

President Corazon Aquino stated her decision and made it public that our government will respect the bases agreement until its expiry date in 1991 and that she is keeping her options open.

Mr. Presiding Officer, in advocating the majority committee report, specifically Sections 3 and 4 on neutrality, nuclear and bases-free country, some views stress sovereignty of the Republic and even invoke survival of the Filipino nation and people.

Our common objective and fervent prayer to Almighty God is for the Philippines to be politically stable and economically progressive under an honest and responsive administration that will respect the Bill of Rights, encourage individual initiative and foster free private enterprise, with proper solution of the insurgency problems for peace and prosperity of all the people as one united nation.

The political miracle of February 1986, through the Divine Providence, has entrusted the national leadership to President Aquino as the clear choice of the sovereign people in toppling down a well-entrenched dictatorship since 1972 and in restoring the blessings of democracy, truth, freedom, justice and progress.

I believe that the national leadership of President Aquino is *pro-Deo* and *pro-Patria,* and we trust that her leadership for the next six years will direct the course of government authority to what is best for our country and people. This Constitutional Commission cannot claim national leadership. Despite varying views and contradictory opinions on the RP-US military facilities, let us strengthen the position of the national leadership under President Corazon Aquino. Can peace be achieved by prescribing as a fundamental principle or state policy a provision on the controversial issue of neutrality, nuclear- and bases-free country? Should we now enshrine in the 1986 Constitution, as our fundamental law for many years in the future, the majority or minority opinion of the 47 Members of this Constitutional Commission to bind the sound judgment of national leadership?

Mr. Presiding Officer, I concur with the views expressed by Commissioners Rodrigo, de Castro, Laurel and many other Commissioners that the Constitution we are drafting should not decide prematurely this very important and far-reaching issue, especially if it is not in accord with, but is contrary to, the wise decision of our sound national leadership.

Thank you.

THE PRESIDING OFFICER (Mr. Davide). The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, there is a request by a member of the committee, Commissioner Nolledo, to deliver his rebuttal. May I ask that he be recognized.

THE PRESIDING OFFICER (Mr. Davide). Are there no more speakers, Mr. Floor Leader? They are only for the rebuttal.

MR. RAMA. Mr. Presiding Officer, there are three more speakers: Commissioners Natividad and Azcuna who are not around, and Aquino who is here.

THE PRESIDING OFFICER (Mr. Davide). Without prejudice to the three speakers, the rebuttal may be allowed now.

Commissioner Nolledo is recognized.

REBUTTAL OF COMMISSIONER NOLLEDO

MR. NOLLEDO. Thank you, Mr. Presiding Officer and my dear colleagues in this Commission:

The anachronistic and ephemeral arguments against the provisions of the committee report to dismantle the American bases after 1991 only show the urgent need to free our country from the entangling alliance with any power bloc.

It was argued that we need the American bases for the security of our country and people. On the contrary, the existence of these bases imperils our national security because we have become a nuclear target by enemies of the United States, thus, making every Filipino live under the shadow of death. Military experts from the United States itself have admitted that there is no imminent threat of attack against the Philippines even in the absence of the American bases. Our Asian neighbors, Malaysia, Indonesia, Thailand and Taiwan which have no American bases, have enjoyed tranquility and peace and have not been seriously threatened by outside forces. The argument on security will make us appear like nervous children holding on to Mother America's apron for military protection or a group of cowards incapable of defending our country from internal as well as external aggression, a situation which makes us unworthy of independence which our forefathers had dreamed of and fought for thinking that we would carry the torch of freedom with a stout heart, dignity and honor. But alas, we find ourselves inadequately secured without the U.S. military facilities. The issue on the maintenance of foreign bases in our country for national security is truly embarrassing to contemplate and shameful to manifest before the eyes of the world for it pictures our countrymen as defenseless cowards who need a foreign army to stay in our shores after we have been, so they say, granted our so-called independence.

The argument that we need the American bases because of the increased insurgency in our midst is an argument that will never impress any right-thinking individual. The presence of the foreign bases in our country for the past 40 years has not contained but, in fact, has increased internal aggression or insurgency in our country.

Another simplistic argument is that the American bases are needed to preserve democracy in our country. Must democracy be maintained by force or threat of force, Mr. Presiding Officer? That is not the democracy I know. For democracy to thrive, it must show its workability and value and must be subjected to an acid test of viability through open as well as clear manifestations that make it appear as favorable to the people. Only through leaders who are sincere, capable and honest can we make democracy truly work. Did the American bases prevent 14 years of Marcos dictatorship? I daresay that these bases provided support for this dictatorship.

The argument that adopting the principle of neutrality and nonalignment would foreclose our options in the conduct of foreign relations is simply *non sequitur.* Adoption of the policy of nonalignment liberates the Philippines from dependence on one power bloc and enables her to deal freely with all nations of the world regardless of ideologies. Thus, Mr. Presiding Officer, nonalignment is not being isolationist. It enables the country to have cooperation on economic, social and political affairs with every nation of the world. It does not foreclose temporary alliances. It enables the nonaligned country to get economic aid from all power blocs. Nonalignment gives substance and meaning to the status of independence.

Mr. Presiding Officer, to the argument that if we declare the Philippines a nuclear-free nation we would be lagging behind other countries should nuclear power proliferate, I say: The atomic bombing of Nagasaki and Hiroshima, the Chernobyl incident and many incidents of lesser degree should sufficiently warn us of the catastrophic effects of nuclear power. Peoples of various nationalities are continuously demanding for destruction of nuclear weapons. The highly prohibitive cost of maintaining nuclear plants should discourage poor and even developing nations from building and operating the same. Proliferation of nuclear plants or weapons may not even come into being as this might convert the world into an international graveyard and provide for mankind's final war. Civilization cannot afford to reach that point of human devastation.

To the gratuitous contention that the Constitutional Commission is not adequately prepared to deal with the question of whether or not to dismantle the American bases after 1991, I say, Mr. Presiding Officer, that as early as 1953, debates on said bases have begun. Even pro-American Presidents Manuel Roxas and Ramon Magsaysay expressed apprehension on the existence of said bases. Mr. Presiding Officer, it is not necessary for us to possess expertise to know that the so-called RP-US Bases Agreement will expire in 1991, that it infringes on our sovereignty and jurisdiction as well as national dignity and honor, that it goes against the UN policy of disarmament and that it constitutes unjust intervention in our internal affairs.

The arguments against the American bases are grounded on fundamental and concrete reasons that are *res ipsa loquitur.* We do not need to overemphasize the importance of dignity and honor to our nation whose traditions are rooted on fervent love of freedom and adherence to the elementary tenets of justice. I would like to quote, Mr. Presiding Officer, an adjusted proverb in Pilipino:

> Ang dangal ng bayan ay tulad ng tubig na nasa tapayan; kaunting langis na ito'y mapatakan, di na iinumin at pandidirihan.

Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Davide). The Floor Leader is recognized.

MR. RAMA. Subject to the reservations made by Commissioners Natividad, Aquino and Azcuna, I move that we proceed to the period of interpellations as agreed upon yesterday.

THE PRESIDING OFFICER (Mr. Davide). Subject to the reservations made, is there any objection to the motion to move to the period of interpellations?

MR. RAMA. Mr. Presiding Officer, may I withdraw my motion in view of the presence of Commissioner Aquino.

THE PRESIDING OFFICER (Mr. Davide). The motion is withdrawn.

MR. RAMA. I ask that Commissioner Aquino be recognized.

THE PRESIDING OFFICER (Mr. Davide). Commissioner Aquino is recognized.

SPONSORSHIP SPEECH OF COMMISSIONER AQUINO

MS. AQUINO. Mr. Presiding Officer, this sponsorship speech certainly took a long time coming, lost in the ganglia of *en contra* and pro. I am presenting this sponsorship speech for Section 3 on behalf of the committee.

The world today is in the vortex of swift historical change. The forces of peaceful coexistence are gaining on the forces of aggression, and the time is past when only one form of neutrality existed – the neutrality of war which was regulated by The Hague Convention.

In the world today, neutrality is a form of peaceful coexistence. It is the only way by which countries subjected to nuclear imperialism through military blocks attempt to achieve peace and independence.

Neutrality, therefore, in the contemporary world is a diplomatic position or attitude adopted by a considerable number of countries, which involves the refusal to participate in nuclear war, the disruption of military alliances, relaxation of the tensions of cold war and in the end makes an outbreak of war itself impossible.

Neutrality does not mean a middle-of-the-road position between war and peace, nor a different road altogether. It is a form of peaceful coexistence. It is the status or policy of a country advocating peace and opposing a policy of war and aggression, refusing to align itself with any military alliance and dedicated to the relaxation of tensions. This new concept is gradually gaining recognition in international law.

As we wallow in the nuclear age, nuclear war involves the danger of annihilating not only the actual parties to the conflict but also the neutral countries, both small and large, and indeed all humanity. In the nuclear age, atomic peace and cold war are the continuation of war in another form.

How can neutrality be defined in the context of positive peace as put forward in the UN Charter?

Positive peace must be distinguished from negative peace, the latter meaning the absence of war, but a genuine peace must be positive. To say that peace is the absence of war is to say that there is no peace. Positive peace means to eradicate the causes of war by creating the economic, cultural, social and political conditions that would eliminate tension and the objective causes of wars or conflicts.

In our time, military blocs and alliances subjugate countries to these Great Powers which are in possession of nuclear weapons and make satellites of them, both economically and politically. Consequently, they are a restriction on national independence and state sovereignty.

Neutrality, therefore, in emancipating these countries from the military blocs restores their sovereign rights, which eventually would lead to the following conclusions:

1. Neutrality is a form of peaceful coexistence in the present times when the forces of peace are gaining on the forces of making war and, when it is possible and indeed historically necessary, for countries of different political systems to live in peace and cooperate with each other.

2. This new type of neutrality is, therefore, inseparable from peace and is a peace neutrality which contributes to world peace. This peace neutrality excludes participation in military blocs or military alliances, rejects all foreign military bases and opposes the stockpiling of nuclear weapons in the territory of the country concerned, the nuclearization of its army and the flight of aeroplanes armed with nuclear weapons.

3. In a period when countries adopting a policy of peace have made headway, neutrality may well take on new forms, including the conclusion of nonaggression pacts.

4. Particularly in the case of African and Asian countries who have gained their independence at the cost of immense sacrifice and suffering in a fierce struggle against colonialism, neutrality is an essential guarantee of their independence.

Contrary to the opinion in the years from 1940 to 1945, we have witnessed a revival of neutrality in recent years which has not coincided with an increase in international tension and is not due to any weakening in the organization of the society of nations. This revival is based on a new definition of neutrality, which in essence is nonbelligerence and which finds itself in harmony with the UN Charter, if their twin characteristics of flexibility and precision are to be taken into consideration.

In Southeast Asia, the adoption of a pacifist and neutralist foreign policy is inexorable. The recently concluded ASEAN conference held in Manila in June this year has laid it clear that the basic security orientation of ASEAN and its individual members is one of neutrality and nonalignment with the superpowers.

5. The legal forms of neutrality may take the following: (a) the adoption of a neutralist policy by a unilateral declaration in the form of a law or a decree and (b) the recognition of the state or government presupposes the recognition of this law and decree. The permanent neutrality of Austria was established in this fashion in 1955. Also it may take the form of a multilateral treaty, such as those which recognized the permanent neutrality of Switzerland in 1815, of Belgium in 1831 and of Luxembourg in 1867.

The contemporary concept of neutrality is no academic abstraction. It is not a speculative theory raised by scholars, philosophers or jurists, nor is it a notion hammered out in the international conferences and given shape by international agreements. It is an idea which has sprung from below, formed by the peoples of the world who are unwilling to take part in the cold war and anxious to remain aloof from aggressive military blocs. It is, above all, dear to the hearts of the people from the young states who have gained their independence in heroic and desperate struggles, since they regard any effort to draw them into military blocs not only as attempts to drag them in the cold war, but also as an attack on their sovereign rights.

The great transformations now taking place in the structure of the international community in this period of peaceful coexistence open new vistas for the peoples of the world, especially for those who are still one way or the other subject to the exploitation of foreign monopolies.

A policy based on the balance of power is an obstacle to a world system of peace and international security. All this indicates the size and extent of the problem facing the international community at the decisive period of its history. We can thus realize the importance of the part to be played by the Asian nations in particular, in the sense that they must unite their efforts for the maintenance of peace by adopting an independent foreign policy, free from subjection to any given sphere of interest. Neutrality is closely linked to national sovereignty and independence and inconsistent with adherence to or membership in any military pact.

Neutrality, therefore, is a concrete product, not an abstract hypothesis of the community of nations. Leaving room as it does for the play of different ideological attitudes and various nonmilitary measures, neutrality can no longer be considered an expression of national egoism or indifference to a just cause.

On the contrary, neutrality is a position that seems to be entirely justified insofar as it represents the particular historical and geographical circumstances of the region. It presents a compromise between the ideals of a fully integrated organization and the political contingencies of today.

In this sense, neutrality serves the cause of peace. It is, in fact, a force of peace.

Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Davide). The Floor Leader is recognized.

MR. RAMA. Subject to the reservations made by Commissioners Natividad and Azcuna, I move that we terminate the period of sponsorship and that we proceed to the period of interpellations.

THE PRESIDING OFFICER (Mr. Davide). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

We now proceed to the period of interpellations, subject to reservations.

SUSPENSION OF SESSION

MR. RAMA. Mr. Presiding Officer, the registered interpellators are Commissioners Bernas, Monsod, Ople, Rigos, Jamir, Rodrigo and Sarmiento.

May I ask for a suspension of the session to enable these Gentlemen to come forward.

THE PRESIDING OFFICER (Mr. Davide). The session is suspended

It was 4:42 p.m.

RESUMPTION OF SESSION

At 4:48 p.m., the session was resumed with the Honorable Rene V. Sarmiento presiding.

THE PRESIDING OFFICER (Mr. Sarmiento). The session is resumed.

The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA. Mr. Presiding Officer, there is a consensus that we take up the interpellations tomorrow. So I move that we adjourn until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Sarmiento). Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until tomorrow at nine-thirty in the morning.

It was 4:48 p.m.

R.C.C. NO. 84

Tuesday, September 16, 1986

OPENING OF SESSION

At 10:05 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Serafin V.C. Guingona.

Everybody remained standing for the Prayer.

PRAYER

MR. GUINGONA. Merciful Father, we, Your sons and daughters in this Commission, offer to You today our renewal of total commitment and dedication to the task before us of framing a Constitution for our people. As we reach the last stages of its completion, we invoke Your Divine Aid for continued moral, mental and physical strength – strength to stand by what is morally right; strength to be able to use our mental capacities to the utmost for the benefit of our people, particularly the underprivileged; strength to carry us through to the last day of our sessions.

Dear Lord, You have brought us together. Help us to liken ourselves as members of a large family under Your paternal care and guidance, each Member different from the other, each blessed with different expertise and having different views yet sharing the same concern, each respecting the opinion of the others, and no one attempting to impose his or her will on another. For it is in the harmonious blending of our efforts and abilities that we will be able to frame a Constitution that is reflective of the ideals and aspirations of our people.

Grant us the resolve to persevere in our efforts and let not our human frailties hinder us from drafting a Constitution truly worthy of our people at the soonest possible time, a Constitution that would secure to ourselves and our posterity the blessings of democracy under the rule of law and a regime of truth, justice, freedom, love, equality and peace. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present*	Nieva	Present
Aquino	Present	Nolledo	Present
Azcuna	Present	Ople	Absent
Bacani	Present*	Padilla	Present
Bengzon	Present*	Quesada	Present*
Bennagen	Present	Rama	Present
Bernas	Present	Regalado	Present
Rosario Braid	Present	Reyes de los	Present
Calderon	Present	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present	Rosales	Absent
Davide	Present	Sarmiento	Present
Foz	Present*	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present	Tadeo	Present*
Guingona	Present	Tan	Present
Jamir	Present	Tingson	Present
Laurel	Absent	Treñas	Present
Lerum	Present*	Uka	Present
Maambong	Present*	Villacorta	Present*
Monsod	Present*	Villegas	Present

Commissioner Rustico F. de los Reyes, Jr. is on official mission.

The President is present.

The roll call shows 30 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Proposed Resolution on First Reading and Communications, the President making the corresponding references:

PROPOSED RESOLUTION ON FIRST READING

Proposed Resolution No. 545, entitled:

RESOLUTION TO DEFER VOTING ON BASES AND NEUTRALITY UNTIL AFTER THE PRESIDENT'S VISIT TO THE UNITED STATES.

Introduced by Honorable Villacorta, Concepcion, Suarez, Sarmiento, Nolledo, Davide, Jr., Uka, Tan, Gascon, Quesada, Garcia, Bennagen, Aquino, Tadeo, Bernas, Azcuna, Abubakar, Foz and Rosario Braid.

To the Steering Committee.

COMMUNICATIONS

Letter from Atty. Floro S. Caritan, No. 1-3 Molave Street, 2nd Reyville Subdivision, Pamplona III, Las Piñas, Metro Manila, expressing his views on the proposed "budget priority in compulsory elementary and high school education," saying that this can be a drawback to some other good provisions in the Constitution because it can mean some delays in infrastructure, agricultural developments, the construction and repair of highways, bridges and roads, because it must be all out for education.

(Communication No. 915 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Atty. Manuel T. Ferrer of the Small Rice Landowners Association of Camarines Norte, expressing full support to the provisions of Section 5 of the proposed Article on Social Justice.

(Communication No. 916 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. Roman Gonzales and three others, Barangay Abogado, Paniqui, Tarlac, urging the Constitutional Commission to consider the upliftment of the veterans who have been left out by Batas Pambansa Blg. 644.

(Communication No. 917 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from one Taisuke Ogawa of 329-1 Uyanagikamimachi, Katsushiro, Kumamoto, Japan, urging the Constitutional Commission to include the base-free and nuclear-free provisions to see a demilitarized and nuclear-free world.

(Communication No. 918 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Mr. Agaton N. Ibarbia I, President, Small Landowners Association of Buhi, Inc., Buhi, Camarines Sur, expressing support for the adoption of a provision protecting the small fishermen from being dispossessed by the rich and foreign group of people and the provision for adequate employment opportunities to deprived citizens affected by the land reform laws.

(Communication No. 919 – Constitutional Commission of 1986)

To the Committee on Social Justice.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. I move that we continue the consideration of Committee Report No. 36 on Proposed Resolution No. 537 on the Article on the Declaration of Principles.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the committee will please occupy the front table in order that we may continue our discussion.

MR. RAMA. Madam President, we are now in the period of interpellations. However, yesterday two

Gentlemen reserved their right to make a speech on the Article on the Declaration of Principles. May I ask that Commissioner Azcuna be recognized.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Madam President.

I rise to support Section 3 of the Declaration of Principles submitted by the committee. The proposal is to assert Philippine sovereignty on Philippine territory by providing that no foreign military bases will henceforth be allowed on Philippine territory. First of all, this proposal does not seek the immediate dismantling of foreign military bases in the Philippines. It clearly states that it is subject to existing international agreements. The Philippines will honor all its international treaty obligations.

The first thing that we should invite attention to is that the RP-US Bases Agreement is due to expire in 1991. If we let it lapse in 1991 without renewing it, we will not be reneging on any obligation; we will not be violating any promise; we will not be tainting our honor, for our promise, our agreement and our obligation is merely to let them have these bases up to 1991, and no more. That should be very clear.

After the agreement expires in 1991, the question, therefore, is: Should we extend a new treaty for these bases to stay put in 1991 in our territory? The position of the committee is that it should not, because the presence of such bases is a derogation of Philippine sovereignty.

It is said that we should leave these matters to be decided by the executive, since the President conducts foreign relations and this is a question of foreign policy. I disagree, Madam President. This is not simply a question of foreign policy; this is a question of national sovereignty. And the Constitution is first and foremost a document of sovereignty. If the Constitution is anything at all, it is a definition of the parameters of the sovereignty of the people.

We are tasked here, Madam President, to draft a constitution. In facing that task we encounter certain drawbacks, certain restrictions, certain derogation to the very sovereignty that we wish to assert under this Charter. Shall we leave it undecided? Shall we leave it to be determined in other fora rather than here? We cannot, Madam President, because the very task we are called to do and to perform is a task of definition of sovereignty, and the biggest restriction, infringement and impairment of that sovereignty we encounter right now is the presence of a foreign military bases in our land.

It is akin to a carpenter who is asked to build or rebuild a house, but the carpenter encounters termites in the house that undermine the very foundation of that house that he is asked to build or rebuild. And some people tell him, "never mind the termites, you are asked to build a house and not to exterminate the termites. Build the house now; let others exterminate the termites later on." That cannot be done. It is a prejudicial question that these termites must be removed, otherwise there is no sense in building the house.

Restrictions and derogations of sovereignty must be addressed, otherwise there is no sense in drafting a document that is called the Constitution, which is a document of political sovereignty.

They say that the Philippines is a petite country, small, like a fragile woman. I vigorously disagree with that statement, Madam President. The Philippines is among the largest countries in the world both in terms of area and population. We are a big country. We have sufficient resources. We have human as well as natural resources that are more than enough to allow us to stand on our own two feet. We do not have to rely perpetually on foreign powers for our defense.

The RP-US Bases Agreement is tied up with the RP-US Mutual Defense Treaty. It is said that we need these bases; that we need this mutual defense treaty for our security, for we are not yet ready to defend ourselves. When will we be ready, Madam President? When will the foreign powers that seek to defend us train us so that we will be able to defend ourselves? Is it not in the interest of a foreign power to make us perpetually dependent on it rather than to train us to stand on our own? As these military agreements expire and as we draft a charter that will assert the sovereignty of our people, it is our task and our duty to give to the people the right to define their own destiny. To leave it out of the proposed Constitution would be to deceive our people. We tell them that they are free, independent, nay, sovereign, yet we do not address the one single factor that derogates and undermines that sovereignty. We pretend that our people are the shapers of their destiny, the masters of their land, the captains of their soul when, in fact,they are not.

I, therefore, propose that we support the committee report that would seek to address this issue squarely because it is an issue of sovereignty. It is an issue that cannot be shirked; it is an option that must be exercised, not by the President, not by the Senators but by the people themselves. If we do not put it in the Constitution, then we are, in effect, depriving the people of the option to decide this matter.

Thank you, Madam President.

MR. ROMULO. Madam President.

THE PRESIDENT. The Acting Floor Leader is recognized.

MR. ROMULO. Commissioner Natividad had also reserved the right to deliver a speech, but he is not here. So, we can proceed to the period of interpellations.

May I ask that Commissioner Bernas be recognized?

THE PRESIDENT. Commissioner Bernas is recognized.

MR. SUAREZ. Madam President, may I be recognized for a parliamentary inquiry?

THE PRESIDENT. Commissioner Suarez may proceed.

MR. SUAREZ. Thank you.

The article under consideration consists of something like 27 sections, Madam President. I wonder if we could adopt the procedure we did when we were discussing the Article on Human Resources which was divided into four main topics. Considering that in the Article on the Declaration of Principles there are 27 sections that would be the subject of interpellations, can we be methodical and systematic in the interpellations as we did when we were discussing the Article on Human Resources which proved to be very productive and very fruitful?

THE PRESIDENT. What is the Gentleman's suggestion?

MR. SUAREZ. My humble suggestion is that we interpellate successively on each section without jumping from one section to another so that there will be a system. In other words, let us start with Section 1, get through with all the interpellations for Section 1, and then move on to Section 2, Section 3, down the line until we complete the whole thing.

Thank you, Madam President.

SUSPENSION OF SESSION

THE PRESIDENT. We will suspend the session for a few minutes. The Chair would like to confer with the members of the committee.

It was 10:25 a.m.

RESUMPTION OF SESSION

At 10:36 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

It was agreed upon with the members of the committee this morning that what we shall have is the interpellation on any subject covered by the committee report on the Article on the Declaration of Principles. So the Chair would request those who wish to interpellate to please register or give their names to the Acting Floor Leader.

MR. ROMULO. Madam President, may I ask that Commissioner Bernas be recognized.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, just a few questions addressed to the Commission in general.

First, with respect to the second sentence of Section 1, which says:

> Sovereignty resides in the Filipino people and all government authority emanates from them and continues only with their consent.

I am interested in the last phrase, "continues only with their consent," which was not in the 1935 Constitution nor in the 1973 Constitution. What does it refer to? Does it refer to the government or to the administration?

MR. TINGSON. Madam President, we are asking the Honorable Azcuna, a member of the committee, to reply if he so desires.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Madam President.

It definitely applies to the administration, Madam President. We believe it also applies to the government in relation to another section here which is the proposal of the Honorable de Castro, which is the right to change governments in case of a long chain of abuses.

FR. BERNAS. Madam President, I would still ask: Is the word "government" to be understood in the sense of an abstract structure or does it refer to the concrete set of warm bodies in whose hands the powers of government happen to reside? Political law makes a distinction between government and administration. What does this refer to and what does Commissioner de Castro's other proposal refer to? Does it mean administration or government?

In other words, does this section mean that every time we are dissatisfied with the performance of the concrete set of people who are with the administration or government, we must have a revolution?

MR. AZCUNA. No, that is not the meaning, Madam President. It means that we change those who are temporarily occupying the government, if the people are not satisfied with their performance.

FR. BERNAS. In other words, the phrase "continues only with their consent" primarily refers to the authority of the concrete set of people, not necessarily of the government.

MR. AZCUNA. Commissioner Nolledo will answer that.

MR. NOLLEDO. Commissioner Bernas is right. The authority of the people in administering the affairs of government will continue with the consent of the people. And, Madam President, it will be noticed that there are two parts contemplated by the words "continues only with their consent," namely: when people go to the polls periodically to elect their government officials; and, secondly, when widespread injustices are being committed; when there is widespread graft and corruption in the government; when the government no longer represents the sentiments of the people and the regular election is not yet forthcoming, the people may, through peaceful means, terminate that authority in accordance with the de Castro resolution.

FR. BERNAS. Which is it, terminate the authority of that administration or terminate the government itself?

MR. NOLLEDO. I would say the administration.

FR. BERNAS. But does this, therefore, exclude the possibility of terminating the authority of government? In other words, does this exclude revolution?

MR. NOLLEDO. It does not exclude revolution when, for example, the government also uses force and commits widespread terrorism. Then, the people under the de Castro resolution may take the law into their hands. That is the extreme, the last resort; and the people's power must prevail.

MR. TINGSON. Madam President.

FR. BERNAS. Is this last clause inspired or motivated by the February event?

MR. TINGSON. Precisely, our committee has received a number of resolutions advocating the enshrining of the people's power in our Constitution, and this is a direct response of the committee to those resolutions.

FR. BERNAS. So, what this refers to primarily is not the administration but the government itself.

MR. NOLLEDO. I would like to clarify. When we say "government," we are referring to the entity itself.

FR. BERNAS. Yes.

MR. NOLLEDO. When we say "administration," we refer to the people who administer the affairs of the government.

FR. BERNAS. Correct.

MR. NOLLEDO. While we are for the changing of the people who administer the affairs of the government and who commit misrule, we do not topple the government. The government is an intangible entity.

FR. BERNAS. Perhaps, as we say, this was inspired by the February event. Would the committee's reading be that the February event was a change of government or a change of administration?

MR. NOLLEDO. I think in the present situation, it was a change of both. The government and administration were changed because we are adopting a revolutionary form of government. But it does not necessarily mean this situation will always be the situation in all cases. It only happened that there was a need to change the Constitution of Mr. Marcos and to conduct a revolutionary form of government in view of the economic turmoil and the political confusion. But it does not mean that this will uniformly apply in the future, Madam President; that was an extraordinary event that happened last February.

FR. BERNAS. Thank you, Madam President.

So my next set of questions will have reference to the second paragraph of Section 3. The second paragraph of Section 3 has two sentences. Are they inseparable, Madam President? In other words, does the second sentence necessarily follow the first or could the first sentence allow for a situation different from what is described in the second sentence?

MR. AZCUNA. Madam President, the second sentence is a specific case of the first sentence. The first sentence speaks of national sovereignty, self-determination and independence. And the second sentence is a specific situation wherein that sovereignty is being derogated by the presence of foreign military bases and, therefore, it calls for their removal or prohibition.

FR. BERNAS. My question is: Is it the position of the committee that the presence of foreign military bases in the country under any circumstances is a derogation of national sovereignty?

MR. AZCUNA. It is difficult to imagine a situation based on existing facts where it would not. However, in the abstract, it is possible that it would not be that much of a derogation. I have in mind, Madam President, the argument that has been presented. Is that the reason why there are U.S. bases in England, in Spain and in Turkey? And it is not being claimed that their sovereignty is being derogated. Our situation is different from theirs because we did not lease or rent these bases to the U.S. The U.S. retained them from us as a colonial power.

FR. BERNAS. So, the second sentence, Madam President, has specific reference to what obtains now.

MR. AZCUNA. Yes. It is really determined by the present situation.

FR. BERNAS. Does the first sentence tolerate a situation radically different from what obtains now? In other words, if we understand sovereignty as autolimitation, as a people's power to give up certain goods in order to obtain something which may be more valuable, would it be possible under this first sentence for the nation to negotiate some kind of a treaty agreement that would not derogate against sovereignty?

MR. AZCUNA. Yes. For example, Madam President, if it is negotiated on a basis of true sovereign equality, such as a mutual ASEAN defense agreement wherein an ASEAN force is created and this ASEAN force is a foreign military force and may have a basis in the member ASEAN countries, this kind of a situation, I think, would not derogate from sovereignty.

MR. NOLLEDO. Madam President, may I be permitted to make a comment on that beautiful question. I think there will be no derogation of sovereignty if the existence of the military bases as stated by Commissioner Azcuna is on the basis of a treaty which was not only ratified by the appropriate body, like the Congress, but also by the people.

I would like also to refer to the situation in Turkey where the Turkish government has control over the bases in Turkey, where the jurisdiction of Turkey is not impaired in anyway, and Turkey retains the right to terminate the treaty under circumstances determined by the host government. I think under such circumstances, the existence of the military bases may not be considered a derogation of sovereignty, Madam President.

FR. BERNAS. Let me be concrete, Madam President, in our circumstances. Suppose they were to have this situation where our government were to negotiate a treaty with the United States, and then the two executive departments in the ordinary course of negotiation come to an agreement. As our Constitution is taking shape now, if this is to be a treaty at all, it will have to be submitted to our Senate for its ratification. Suppose, therefore, that what was agreed upon between the United States and the executive department of the Philippines is submitted and ratified by the Senate, then it is further submitted to the people for its ratification and subsequently, we ask the United States: "Complete the process by accepting it as a treaty through ratification by your Senate as the United States Constitution requires," would such an arrangement be in derogation of sovereignty?

MR. NOLLEDO. Under the circumstances the Commissioner just mentioned, Madam President, on the basis of the provision of Section 1 that "sovereignty resides in the Filipino people," then we would not consider that a derogation of our sovereignty on the basis and expectation that there was a plebiscite.

FR. BERNAS. Thank you, Madam President.

Still in relation to this, towards the end of the report, lines 28 to 31 of page 5, we have a portion there for inclusion in the Transitory Provisions. As Section 3 is formulated, is this transitory provision necessary or does Section 3 already take care of this?

MR. NOLLEDO. If I were to decide, with due respect to the committee because the committee recommends a transitory provision on the basis of the second paragraph of Section 3, Madam President, there is no need.

FR. BERNAS. There is no need.

MR. NOLLEDO. There is no need for a transitory provision because it says, "Subject to existing treaties, international or executive agreements." This is on the assumption that the RP-US Bases Agreement is really a treaty because there is a claim that this agreement is null and void, as I pointed out in my sponsorship speech. That agreement was not ratified by the Senate of the United States and it was executed under Resolution No. 3 of the Congress of the United States under highly questionable circumstances.

FR. BERNAS. With that answer, Madam President, would it, therefore, be possible to drop lines 20 and 21 of page 1 and lines 1 and 2 of page 2 and consider the same matter when we take up lines 28 to 31 of page 5?

MR. NOLLEDO. There is a possibility. But Commissioner Garcia would like to make a comment.

MR. GARCIA. Madam President, I would like to add this fact. We are also stating here a principle that we do not wish to have any foreign military bases of any kind from any power under any administration as a declaration of our principle because the mere acceptance of foreign bases is also a diminution of our sovereignty, although we accept, as has been stated by Commissioner Nolledo, that there can be a voluntary or willful giving up of part of our sovereignty under extraordinary circumstances when it is properly ratified by the people. But in any case, it is still a diminution of our sovereignty, if we allow foreign troops and facilities in our land. That is why we would like to state categorically in our Declaration of Principles that we do not wish to have foreign bases, as a matter of principle.

FR. BERNAS. Let me formulate my question differently then. Let us suppose that we were to approve the second sentence of paragraph 2 of Section 3. Would it still be necessary to take up the transitory provision?

MR. NOLLEDO. Madam President, as I see it—please tell me if I am wrong — the way the questions are worded, the Gentleman would like to say that there should be no declaration in the Declaration of Principles that no military bases shall exist in the country because this treaty can be entered into later on and will assume validity if ratified by the people.

FR. BERNAS. That is not what I am saying, Madam President. What I am saying is, it would seem to me that one or the other will suffice.

MR. AZCUNA. May I answer that, Madam President. It will not necessarily suffice because under the first part of Section 3 which says: "Subject to existing treaties, international or executive agreements. . ." it can be renewed because the existing agreements allow renewal whereas under the portion for inclusion in the

Transitory Provisions, what we are saying is we do not renew it anymore.

FR. BERNAS. It seems to me the Gentleman is sponsoring two contradictory propositions. One says it is possible to renew, while the other says no renewal.

MR. AZCUNA. Yes. We are saying that the existing agreement allows the possibility of renewal and then the other exercises the option not to renew. It is not inconsistent; we are exercising the option already. We will make the people exercise the option.

MR. NOLLEDO. Madam President, to make it clearer, I say: If we adopt in the Declaration of Principles that no military bases, troops or facilities shall be maintained in the Philippines, then we can still provide in the Transitory Provisions that the RP-US Bases Agreement may continue up to 1991. And after 1991, it will be unconstitutional for the executive department to negotiate a treaty and, therefore, we do not talk of ratification in that regard.

FR. BERNAS. Is the Gentleman, therefore, saying that this second sentence has reference to the period before 1991?

MR. NOLLEDO. Yes, because we have to respect the existing treaty on the basis of the assumption that the RP-US Bases Agreement is valid. And so, when we make a declaration that no foreign military bases or troops or facilities in the Philippines shall be maintained, then we respect only the RP-US Bases Agreement up to 1991. That is the meaning, Madam President.

FR. BERNAS. But the transitory provision seems to be saying exactly the same thing.

MR. NOLLEDO. No, the transitory provision will be to the effect that the RP-US Bases Agreement will continue up to 1991. In other words, our declaration that no foreign military bases, troops or facilities shall be maintained in the Philippines shall only have prospective effect.

FR. BERNAS. Madam President, the transitory provision says that the RP-US Bases Agreement will continue until 1991. Is the second sentence of Section 3 saying that it will not continue until 1991?

MR. AZCUNA. No, it does not.

MR. NOLLEDO. No.

MR. AZCUNA. But as I said, it makes it clear that the option to renew, which is allowed under the existing treaty, will not be exercised.

FR. BERNAS. Let me move on to Section 4. The first sentence of Section 4 says: "The Philippines is a nuclear-free country." Does the phrase "nuclear-free" have reference to any form or use of nuclear power?

MR. AZCUNA. No, Madam President. The intention here, as approved by the committee, is really nuclear weapons-free. It should be read in relation to the second sentence.

FR. BERNAS. So that even if we keep the first sentence as it is worded, it would not, let us say, exclude nuclear power plants?

MR. AZCUNA. Yes, Madam President.

FR. BERNAS. It would not. How about nuclear medicine?

MR. AZCUNA. Especially because of the recent developments in plasma physics where the fusion reactor had a recent breakthrough, attaining 10 million degrees Kelvin temperature in New Jersey, which, therefore, may hasten the advent of a new type of nuclear reactor different from the highly radioactive fusion reactor we have now. This fusion reactor would be relatively clean and its raw materials would be water. And it is expected by scientists that this fusion reactor will be available for commercial use at the turn of the century.

FR. BERNAS. Thank you, Madam President.

MR. NOLLEDO. Madam President, I would like to manifest here that the committee was divided on the scope of the words "nuclear-free country." Commissioner Garcia and I believe that the words should cover both nuclear plants and nuclear weapons.

FR. BERNAS. How about nuclear medicine, Madam President?

MR. NOLLEDO. Nuclear medicine, I think, should be excluded for obvious reason.

FR. BERNAS. Thank you, Madam President.

MR. ROMULO. Madam President, I ask that Commissioner Guingona be recognized.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Madam President.

With regard to Section 1, in reply to the interpellation of Commissioner Bernas, the committee had expressed the view that the phrase "continues only with their consent" will generally refer to a change of administration through peaceful means, although the committee has not discounted the use of violent revolution.

Madam President, I have submitted a proposed resolution supporting people's power although perhaps it might be well for us to distinguish between people's power and mob rule. But my view is that when we speak of violent revolution, we are now talking of an act that is outside the framework of the rule of law.

And as the honorable Commissioner, former Chief Justice Concepcion, has repeated more than once, the Constitution is an instrument which enshrines the rule of law. And, therefore, any allusion to any act which would be violative of the rule of law might be questionable.

I am not saying that I am against this as provided in the circumstances mentioned under Section 26 which says:

> When a long chain of government abuses and usurpations, pursuing invariably the same object contrary to the expressed will of the people, evinces a design to reduce them under absolute despotism, . . .

I am not saying that under these circumstances the people might not have the right to revolt. I think the right to revolt violently would be an inherent right. But I do not know whether this should be contained in the Constitution which, as I said, is an instrument that enshrines the rule of law.

By way of illustration, it is an inherent right of a person to kill in self-defense, but in the enumeration of the rights of a person to self-defense, one does not usually include the right to kill in self-defense because we would be encouraging people to kill and claim self-defense in the same way that we would be encouraging people to revolt violently and claim this under the allegation that the circumstances cited exist.

MR. NOLLEDO. Madam President, the rule of law that is embodied in our Preamble can be qualified by the so-called Crispino de Castro resolution now embodied in Section 26. The Gentleman admitted that Section 26 constitutes an inherent right. We are dramatizing the importance of people's power by embodying the inherent right in Section 26. And it does not necessarily mean that we will encourage the people to kill because there are situations that are contemplated therein. And when these situations happen, then that inherent right can be exercised.

Even without putting that in the Constitution, I think the people, as rational beings, know that they have the inherent right to use force when the government no longer serves their purpose, when the government becomes dictatorial or when the government ignores their rights completely. And so, with or without that provision in the Constitution, the inherent right of the people to revolt against an oppressive government as an extreme measure is recognized in all civilized countries.

MR. GUINGONA. That is exactly my point, Madam President. We do not have to put it in the Constitution. I do not know of any Constitution which provides for the right to revolt violently.

MR. DE CASTRO. Madam President.

MR. GUINGONA. Anyway, may I go to the next section, Madam President?

MR. DE CASTRO. Madam President.

MR. NOLLEDO. Before Commissioner de Castro speaks, Madam President, I would like the Commission to know that there is a similar provision in the Preamble itself of the Universal Declaration of Human Rights. We are giving importance to that declaration by putting it here in the Constitution.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized. He desires to respond to Commissioner Guingona's query.

MR. DE CASTRO. Thank you, Madam President.

I am the author of Section 26. It is the intention of Section 26, Madam President, to enshrine in our Constitution the abusive regime of 20 years and the peaceful revolution at EDSA. This is also contained in the Declaration of Independence of the United States on July 4, 1776, unanimously approved by the original 13 states of America. But while it is there, it is really the intention of this humble proponent that we should enshrine in our Constitution what we suffered in those 20 years and what we did, which was the peaceful revolution at EDSA on February, 1986.

Madam President, we talk of revolution. This is not a revolution; this is a change of government, a change of the authorities in government, not a revolution. It can be a peaceful one, but indeed we need such action. We need such a provision in our Constitution so our people may know that it is our right to change our government when we have been long abused.

That is the concept of Section 26, Madam President.

THE PRESIDENT. Is Commissioner Guingona satisfied?

MR. GUINGONA. I will not pursue the matter, Madam President, but I might introduce an amendment at the proper time.

THE PRESIDENT. May we have the next interpellator.

MR. GUINGONA. I am not yet through, Madam President, I have a series of points.

THE PRESIDENT. Please proceed.

MR. GUINGONA. Madam President, may I inquire from the honorable members and chairman of the committee about Section 2. When we say the Philippines adopts the generally accepted principles of international law as part of the laws of the land, does the phrase "laws of the land" refer to statutory laws or constitutional laws or both?

MR. NOLLEDO. Both, Madam President.

MR. GUINGONA. I see. There will be no problem if we refer to the international law whether customary or conventional treaties or conventions as part of our statutory law. In case of a conflict between the provisions of these two laws or these two acts, then we can follow the principle of statutory construction and say that the latter act prevails.

However, I have a situation, Madam President. For example, we have provided expressly in our Constitution that ownership of corporations operating public utilities should be 60-40; there should be a 60-40 equity in favor of Filipinos. Suppose a treaty is entered into later which would give the Filipinos a majority equity that is less than what was provided for in the Constitution, there will be a conflict now between two constitutional provisions – the provision of 60-40 as expressly contained in our Constitution and the provision of a majority ownership as provided for in the treaty which is made a part of our Constitution. In that case, the problem would have to go to court. I was wondering whether it would be safer if we just consider treaties or conventions as part of our municipal law and not part of our constitutional law.

MR. NOLLEDO. In that respect, there is no inconsistency, Madam President, because the treaty itself must be constitutional. If it violates the Constitution, then the Constitution shall prevail.

With respect to the problem, if I were the court or should there be a case, I would decide in favor of a definite constitutional provision that the 60-40 equity should be observed. The rule that the Philippines renounces war as an instrument of national policy and adopts the generally accepted principles of international law is a general statement, a mere declaration, while the other provision in the latter part of the Constitution is very definite. The definite provision should prevail.

MR. GUINGONA. But by adopting the provision of the treaty as part of the Constitution, we, in effect, give it the force of a constitutional provision. Anyway, that is just a question.

MR. NOLLEDO. That statement is very important. The statement that I made that it forms part of the Constitution is with respect to the pertinent provisions of the United Nations Charter because we also observe those provisions. It seems to me that all nations, regardless of the provisions of their municipal law, must respect the UN Charter.

MR. GUINGONA. Regarding Section 3, Madam President, I was wondering whether the statement that "The State shall pursue an independent course in sovereign relations" might impair our treaty-making authority as a sovereign state, particularly, in the matter of concluding agreements regarding the installation of military bases in the country. Would it be an impairment? In other words, would this provision prevent or prohibit our government or the State from entering into an agreement concerning the installation and operation of military bases in our country?

MR. NOLLEDO. As I stated, in answer to the queries of Commissioner Bernas, if we adopt the provision that "no foreign military bases, troops or facilities shall exist in the country," then we will respect only the RP-US Bases Agreement up to 1991 and no further agreement of a similar or identical nature can be entered into by the Republic of the Philippines.

MR. GUINGONA. But what if we do not approve the proposal about the foreign military bases?

MR. NOLLEDO. If we just approve, for example, a provision on neutrality or nonalignment, as I said yesterday, nonalignment does not prohibit temporary alliances. Then, in such a case, we do not prohibit the existence of the military bases agreement pursuant to treaties duly ratified by the appropriate body.

MR. GUINGONA. Madam President, I would not object on the proviso that we should strive – and I underscore the word "strive" – to promote and establish together with other states agreeable thereto, a zone of peace, freedom and neutrality in this part of the world provided it is understood that this is a policy statement and would not be immediately implementable. My view is that as long as the need for the retention of the US military bases exists inorder to maintain the balance of power that I spoke of last Saturday, and unless we could disassociate the presence of military bases here with the maintenance of the said balance of power, then there should be no talk about neutrality. This is not to say that I do not favor neutrality as a concept.

During the 19th century, the US was the foremost apostle of neutrality. In the early 1900s, Britain and Russia sought to create neutralized states, the so-called *Terra Nullio* for their mutual benefit. Switzerland was neutralized to avoid potential competition between France, Prussia and Russia but nuclear weaponry was unheard of then. Besides, the rules of the game, Madam President, including the rules involving neutrality, would be effective only if they are observed and respected by all parties to the agreement. But as has been pointed out by Commissioner de los Reyes, history is replete with incidents of violations of neutrality agreements by signatories thereto when such neutrality affected adversely their national interest which is, after all, the primordial interest of any state.

I admit that circumstances may change if in the future American strength in this part of the world becomes preponderant and there would be no need to continue the maintenance of the bases here or if the United States could, without risking an adverse shift in the balance of power, transfer its bases elsewhere, and they are willing to do so. Then and only then could we speak of neutrality not only as an objective but as a policy which could be made implementable.

Regarding this nuclear-free country provision, Madam President, I was happy when the committee said – I think it was Commissioner Azcuna who said that – that this would only apply to the stockpiling of nuclear weapons, devices and parts thereof. But I was disturbed when Commissioner Nolledo or Commissioner Garcia said that the committee was divided. And I would, therefore, like to say in view of this division that in the sense of the committee it is my humble view that we should not foreclose the use of nuclear energy for peaceful means and for the benefit of our country and our people.

I do not only refer to nuclear plants, Madam President. Even with regard to nuclear plants it might be admitted that at present the installation and operation thereof involve high risks. They are expensive and their use at the moment seems to be limited only to electric generation which could, by the way, include mass transit electrification. The phenomenal growth of science and technology especially during the second half of this century could bring about the installation and operation of nuclear plants in the not too distant future with relative minimal risk and which are inexpensive, especially if the price of oil escalates again because of, let us say, political instability in the Middle East.

In the United States there are about 80 nuclear plants in operation. In our part of the world there are at least five countries with nuclear plants. They are Japan, Korea, Taiwan, India and Pakistan. Commissioner Azcuna had mentioned about the new development called thermo-nuclear fusion which is described as a fantastic source of energy in this book he has loaned me entitled, *The Fourth State of Matter: Plasma Dynamics and Tomorrow's Technology* by Ben Bova. That is why I submit, Madam President, that we should be cautious in reaching a decision regarding the banning of the use of nuclear energy for peaceful purposes. Even with regard to the banning of nuclear weaponry, although I do not express any objection to this, I would like the honorable Members of the Commission to remember the question that was raised last Saturday, whether by adopting a nuclear-free policy in the Constitution we would not unnecessarily restrict our defense system.

Madam President, in support of nuclear safety, or what they call the reactor safety of nuclear plants, may I quote one or two sentences from this book entitled, *Nuclear Power: Both Sides* by Michio Kaku and Jennifer Trainer which says:

> Although the trauma of an accident would be great, the net risk to society is small compared with other risks that we accept routinely.

For example, airline accidents can also kill hundreds of people and these occur with notable frequency. The consequences of dam failures could be even larger, thousands or tens of thousands of deaths have higher probability than large reactor accidents.

Madam President, with your kind indulgence, I would like to go to another point, to another section, and this would be Section 6 regarding the prime duty of the government to serve and protect the people and that citizens may be required by law with due regard to objections of conscience to render service.

I have three questions regarding this latter part, Madam President. First, when we say "required by law," do we also contemplate executive orders by the President or are we talking of legislative enactments? When we say "required by law" regarding the fulfillment of the duty of all citizens to render personal military or civil service, are we talking of law as a legislative enactment or are we including the requirement to render service by executive order of the President?

MR. NOLLEDO. I would say it is by law, but when the executive order is issued pursuant to law, I would say that executive order may be included when it is within the domain of presidential power. I think it is known that an executive order which is not contrary to law is also law itself. It has the force of law.

MR. GUINGONA. The Commissioner would include executive orders, Madam President.

MR. NOLLEDO. Yes. An executive order, as long as it is not contrary to law, is deemed included, Madam President.

MR. GUINGONA. There would be no need for a congressional delegation of power.

MR. NOLLEDO. No, that is why I said it must not be contrary to law.

MR. GUINGONA. Thank you.

MR. NOLLEDO. And the President, being the commander-in-chief, may exercise his powers by issuing an executive order in order to make meaningful his position as commander-in-chief.

MR. GUINGONA. With this qualification, "with due regard to objections of conscience," I would presume that this would refer to objections to go to war. Am I right about objections of conscience?

MR. AZCUNA. Yes, Madam President, this refers to conscientious objectors – those whose conscience sincerely tell them that they should not kill people under any circumstances.

MR. GUINGONA. I have been told by military people that service in the military does not necessarily require killing or going to the front. A person could serve in the hospital, as a kitchen helper, cook or whatever. How would this affect their conscience?

MR. AZCUNA. Yes, Madam President, the phrase "with due regard to objections of conscience" does not mean that they will not be drafted but they will be given noncombatant duties.

MR. GUINGONA. So that is the sense, Madam President?

MR. AZCUNA. Yes, Madam President.

MR. GUINGONA. And then finally I was thinking that maybe later on I might suggest the changing of the words "civil service" to "CIVIC SERVICE" because there might be a confusion between "civil service" as provided for under the provision on constitutional commissions and this particular provision.

MR. AZCUNA. Madam President, we just followed the wording of the 1935 and 1973 Constitutions, which is "civil service."

MR. GUINGONA. Yes. At the proper time, I shall ask for the deletion of the second paragraph of Section 10, which says:

> For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

The above paragraph has already been included in the aims of education. Likewise, I shall propose the deletion of the following statement from Section 19:

> Towards this end, it shall promote the development of an indigenous socially responsive and nationalist oriented scientific and technological capability.

The above was already included under the section on science and technology.

I have two more sections that I would like to address myself to, Madam President. With regard to Section 24, relative to the grant of asylum, there is a clause at the end which says: "and they shall not be extradited." I was wondering if it would be better to leave to Congress the decision on whether or not a person could be extradited under certain circumstances as part of the conditions of the grant of asylum.

MR. NOLLEDO. Madam President, the words "and they shall not be extradited" follow the words "defense of human rights and in the liberation of their country" because if foreigners come to our country and we give them asylum but the other country will invoke an existing extradition treaty, in that case, we render meaningless the first part of this provision protecting these people as freedom fighters. When we agree to have them extradited, then the country of origin may execute or render them severe punishment, thereby negating the very purpose of the provision.

MR. GUINGONA. Yes, but the committee is already providing that the conditions shall not be laid down by law. However, I believe this could be a condition that may be laid down by law because there may be circumstances when a person should be extradited, especially when there is an extradition treaty. I was thinking it might be more advisable to leave the decision to Congress. In my opinion, this is again another type of an attempt for us to legislate.

MR. NOLLEDO. We will consider the amendment of Commissioner Guingona.

MR. GUINGONA. My last question has to do with Section 26. I repeat that I do not think we should institutionalize violent revolution because our instrument is an instrument which is supposed to enshrine the rule of law.

Thank you, Madam President.

MR. NOLLEDO. With respect to that, I would like to make it of record that Commissioners Ople, Natividad and Maambong have also filed a resolution similar to Section 26, known as the de Castro resolution.

Thank you, Madam President.

MR. ROMULO. Madam President, I ask that Commissioner Nieva be recognized.

THE PRESIDENT. Commissioner Nieva is not around.

MR. ROMULO. Then, may I ask that Commissioner Rigos be recognized.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, I would like to go back to the question raised by Commissioner Bernas on Section 4. Does the committee distinguish between nuclear-free and nuclear weapon-free?

MR. AZCUNA. The sense of the committee is "nuclear weapons-free," although we were divided. The majority wants to limit it to nuclear weapons-free and, therefore, as the text is written, "nuclear-free" means nuclear weapons-free, as clarified in the second sentence.

REV. RIGOS. In other words, there are members of the committee who feel that the wording should be "nuclear weapons-free."

MR. NOLLEDO. Majority of us favor that, Madam President.

MR. AZCUNA. That is the sense in which it is used.

REV. RIGOS. In Section 9, the committee speaks of the family as a basic social institution. It also speaks of protecting the life of the mother and the life of the unborn child. This is also included in the Article on Family Rights. Is the intention of the committee to delete that portion in the Article on Family Rights in case this is approved here, or would the committee tolerate the mention of this portion in the Declaration of Principles and in the Article on Family Rights?

MR. NOLLEDO. Commissioner Villegas would like to answer.

MR. VILLEGAS. May I answer that, Madam President.

I think this will also apply to other topics. It is the intention of the committee that in the Declaration of Principles, we make general mention of specific rights, whether these be about the family, labor or cooperativism without prejudice to their being fleshed out, so to speak, in the other articles where we can talk about them in greater detail. I think we should not hesitate to have these in a general statement in the Declaration of Principles, although we may find some duplication in the various other articles but with more details. And I think this is also applicable to family rights.

REV. RIGOS. Apparently, that is the same intention in the case of the role of the youth, Section 10; the role of women, Section 11; labor, Section 12; education, Section 13; agrarian reform, Section 14; cultural minorities, Section 15; science and technology, Section 19; and autonomy, Section 22.

The committee intentionally forgot equally important subjects, such as accountability of public officials, the legislative, the executive, the judiciary. These are not found in the Declaration of Principles.

MR. TINGSON. Madam President, we realize that. In a sense, there is a repetition. However, the Declaration of Principles would be a brief, pungent, affirmative, ringing statement that would, as expressed by Commissioner Villegas a while ago, be fleshed out in detail in succeeding articles. Commissioner Rigos may be right in saying that equally important subjects or articles are not included in the Declaration of Principles, and probably he may desire to call our attention to this during the period of amendments.

REV. RIGOS. In other words, the committee had some bases in deciding to include agrarian reform, cultural minorities, science and technology, but not the legislative, the judiciary, the accountability of public officials.

MR. TINGSON. One of the bases was the priority of importance, according to the perception of the committee when we were deliberating on this. But we might have overlooked a few that probably merit consideration.

REV. RIGOS. In Section 9, page 3, there is a sentence which reads:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

When is the moment of conception?

MR. VILLEGAS. Madam President.

MR. TINGSON. The bachelor member of our committee seems to have expertise on this matter.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. As I explained in the sponsorship speech, it is when the ovum is fertilized by the sperm that there is human life. Just to repeat: first, there is obviously life because it starts to nourish itself, it starts to grow as any living being, and it is human because at the moment of fertilization, the chromosomes that combined in the fertilized ovum are the chromosomes that are uniquely found in human beings and are not found in any other living being.

REV. RIGOS. I suppose Commissioner Bacani agrees with the Gentleman on that. I just want to be sure that Commissioner Aquino also agrees with him.

MR. NOLLEDO. The Gentleman is married; he should know the answer. *(Laughter)*

REV. RIGOS. Thank you, Madam President.

MS. AQUINO. The committee is strongly divided on the matter of human life regarding the phrase "from the moment of conception." There are questions like: Is a mere biological existence, as a potential for human life, qualifiable as a human person? This is a question that has rankled and divided the committee on the interpretation of this section. I, personally, would take exception to the position of Commissioner Villegas on the matter, except that I am bound by the committee decision on this.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I interject a comment at this particular point. I think there need not be, even at this particular point, a conflict between the positions of Commissioner Aquino and Commissioner Villegas. The position of Commissioner Villegas is that there is human life there; he is not asserting that there is human personality in the philosophical sense. I think at this stage of the game, there is no conflict here.

One can vindicate human life biologically and genetically without the need to specify human personality in the philosophical sense.

Thank you.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. We would like Commissioner Rigos to know that the phrase "from the moment of conception" was described by us here before with the scientific phrase "fertilized ovum." However, we figured in the committee that the phrase "fertilized ovum" may be beyond the comprehension of some people; we want to use the simpler phrase "from the moment of conception."

MR. ROMULO. Madam President, may I ask that Commissioner Nieva be recognized.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. Madam President, I just want to ask a very simple clarificatory question with regard to the phrase "a zone of peace, freedom and neutrality." Do I understand that this means we cannot declare ourselves unilaterally neutral? When one declares oneself neutral, would this have to be reached in accord with the consent of other nations, especially the big powers? Is that how we are to understand this?

I think it was brought out that if we declare ourselves neutral or that we strive for an independent course which would declare the country a zone of peace, freedom and neutrality, this would not mean a unilateral declaration of neutrality.

MS. AQUINO. Madam President, it is very clear in the tenor of the formulation that Section 3 is an attempt to constitutionalize a desire.

MS. NIEVA. A desire, yes.

MS. AQUINO. A desire for neutrality to be adopted in the region. Neutrality, therefore, is perceived as a process over time. We cannot legislate on neutrality in the Constitution which is independent of the recognition of the other areas of other countries within the region.

MS. NIEVA. For example, we want to envision that it is not only the United States that would have to respect our neutrality but also China and Russia, the big powers.

MS. AQUINO. As I explained in the sponsorship speech, the legal forms of neutrality may be varied. These may be in the form of a unilateral declaration by way of law or a decree, like the way it was done in Austria and Switzerland. The recognition of the country would concomitantly and, in effect, mean the recognition of the law or decree on neutrality. It could also be done by way of a multilateral treaty by which the country is recognized by the great powers the way it was done in Belgium and Luxemburg.

MS. NIEVA. Therefore, there are two ways to attain neutrality.

MS. AQUINO. Yes.

MS. NIEVA. From the layman's point of view, what would be the advantages, the effectivity of unilaterally declaring one's country as working towards neutrality, if the other powers will not agree to respect that neutrality?

MS. AQUINO. Madam President, we do not speak of advantages or disadvantages here. We look at the Constitution as an essentially sovereign charter, and, therefore, when we provide in it a desire to declare a policy of neutrality in the region, the idea is to break ground. When we break ground in the expression of that desire in the Constitution, this desire takes root.

MS. NIEVA. And we would mandate the State to take all steps to ensure this neutrality.

MS. AQUINO. Yes.

MS. NIEVA. This includes getting the consent of the big powers, whoever they are, that would infringe on our neutrality.

MS. AQUINO. Yes. The wisdom of the committee formulation is that we are very well aware of the experiences of other countries which have declared neutrality unilaterally, independent of recognition of the other nations adjacent to it, which had faced tremendous obstacles in the realization of a neutrality position. We are very well aware of the sad experiences of Austria and Luxemburg. And for that reason, the committee is of the perception that neutrality can be meaningful only if perceived in the context of a regional neutralization.

MS. NIEVA. If we are working for a no-bases stand, will we be working at the same time that the USSR would agree to eliminate its Cam Ranh Base?

MS. AQUINO. Yes, exactly. That would exist in the realm of negotiations on the adoption of a regional neutralization.

MS. NIEVA. Thank you.

MS. AQUINO. That is distinctly possible.

Thank you.

MR. ABUBAKAR. Madam President, may I raise a question?

THE PRESIDENT. Commissioner Abubakar is recognized.

MR. ABUBAKAR. I wonder if it is wise in matters of foreign policy, foreign relations or foreign movement to incorporate this issue in the Constitution. Flexibility is the rule in foreign policy; flexibility is wiser. And as far as our movement in our foreign relations is concerned, whether we are going to the left, to the center or what, that would make it difficult if we incorporate this issue in the Constitution.

Can we not just leave this free, so as not to have it incorporated in the Constitution? Besides, our ideas, as well as our move in respect to certain positions, will not be known by whatever group or forces that are for or against it.

MR. NOLLEDO. Madam President, when we provide for neutrality, we are providing for flexibility because this includes nonalignment; we are liberating our country from dependence upon any particular power bloc.

MR. ABUBAKAR. Yes.

MR. NOLLEDO. Therefore, I beg to disagree. When we give more options to our government, the latter may adopt means and ways by which we can conduct our foreign relations. As of now, we are too dependent upon the United States. There must be a clear declaration that we are providing nonalignment now known as "neutralism," by which we are free to deal with any foreign country. We can deal with Russia; we can deal with the United States; we can deal with any country in Europe. We, therefore, widen our options by adopting neutrality.

MR. ABUBAKAR. But is not adopting a neutral position adopting a position itself? Why can we not just leave that blank? Nobody would know; no State would know what our position is. When we adopt neutrality, we take a position, so why include that in the Constitution?

I think that flexibility as a foreign policy should be ruled out of any constitutional provision. Our position in any foreign relation is always temporary. Our paramount interest is the foremost consideration. Therefore, if our paramount interest is this, we go there; if our paramount interest is center, we go center; if it is right, we go right. So, why incorporate in the Constitution a position on matters of neutrality that we should or should not adopt?

I think it should not be included in the Constitution. Let us give our people and our legislature time because development of our foreign relation is always moving from right, center to left or I do not know where, so should we not in the wisdom of our position leave this out?

MR. NOLLEDO. For the information of the Gentleman, neutrality does not preclude going to the left, going to the center or going to the right. We can enter into temporary alliances and we will be completely free in the conduct of our foreign relations.

MS. AQUINO. Yes.

MR. ABUBAKAR. Does the Commissioner not think it would be to our advantage not to state anything or something which could be misinterpreted?

MR. NOLLEDO. In view of the situation we are in, and because of the existence of American bases in the country, I think there is a need to declare that we are adopting the principle of neutrality.

MR. ABUBAKAR. But whether we declare the principle of neutrality or not, as long as there are bases here, as long as there is the presence of foreign troops in our country, the adoption of neutrality in the Constitution is meaningless.

MS. AQUINO. Madam President, may I address myself to the query of Commissioner Abubakar.

It is the committee's position that a foreign policy or a status of neutrality is inherent in the expression of the State's sovereign right. Thus, in the exercise of a sovereign right, a state could provide for a policy of neutrality and we see this as the need and the imperative of the times or the historical epoch. We exist in a situation of real politics where we are threatened by aggressive policies of hegemony from the superpowers and the great powers. And in the context of power politics, it is necessary for a small country and a new state such as the Philippines to adopt a definitive position on its foreign policy trend.

MR. ABUBAKAR. I disagree with that view because lessons of history as well as of foreign policy positions have not been respected by the powers. Belgium in World War I was a neutral country but the interest of Germany dictated otherwise. So, would we not be in a better position if we do not state our position, thereby making us always flexible? Why declare that position in a constitution?

MS. AQUINO. I respect Commissioner Abubakar's position on the matter, but then we should also be aware of certain historical accidents of geography and strategic configuration that make the Philippines a strategic fodder for all of the geopowers within the area. For example, by accident of geography, we are placed in such a strategic position that America would want to exert every possible influence on modalities of political penetration to influence our foreign policy drift in favor of an aggressive foreign policy of the United States in the East, in the Indian Ocean, in East Asia and in the Pacific. Russia, on the other hand, with her posture of reactive defense, would be interested also in the Philippines as a reaction to the American geostrategic interest in the country. These are the realities of politics that we have to reckon with, which may make it necessary for the State to definitively adopt the policy of survival.

MR. ABUBAKAR. Madam President, foreign relations and foreign policy are matters of national and international interest. If it is in the interest of a power to take over the Philippines because this strengthens the country's strategic position, neutrality or no neutrality, the powerful state would take the Philippines. So, it would be better, in my opinion, not to state a position at all.

MS. AQUINO. May I ask the Gentleman just one query.

In the context of what Commissioner Abubakar just said that great powers would have interest in the country, do we lie prostrate by not protecting ourselves in terms of any aggressive policy in our Constitution? Should we just voluntarily allow foreign enclaves to lay claim on certain aspects of our territory? Should we not take it upon ourselves as a burden of sovereignty to assert our own rights to self-determination and territorial integrity?

MR. ABUBAKAR. I think that is taken for granted by any independent country, if the independence it enjoys means an absolute power to define its position. What I mean is this: the policy of flexibility would be more to our interest by not defining our position as far as foreign policy or foreign direction is concerned. This is because the mere definition of neutrality in our Constitution will not protect us from any power whose interests – militarily strategic or otherwise – would foreclose the neutrality. So, if it does not offer us any advantage, it is not a guarantee to anything in our favor. It is like playing poker. Why show your hand?

MS. AQUINO. I would concede that. In fact, there are no eternal guarantees of security in foreign policy. But, at the same time, this does not preclude us from taking continuous efforts at preserving our national integrity. A position of neutrality is a giant breakthrough in the right direction towards that. In the absence of eternal guarantees for territorial sovereignty and territorial integrity, it is the best shot that we can take so far.

MR. ABUBAKAR. Does the Commissioner not agree with me that that is a position which is not only flexible but also changes as power changes evolve? Should we rather not declare this in a legislative act and in a foreign relation policy or declaration, instead of putting it in the Constitution? Why raise this policy direction to a constitutional mandate? The Constitution is a sacred document. It defines the position which we will have to take later. But why incorporate this? This could be declared by our Congress; this could be incorporated in a foreign policy declaration. What I question, Madam President, is the wisdom of incorporating this in the Constitution. The Congress can do it, but enthroning it in the Constitution would make this particular policy in foreign relation difficult to correct or modify.

Perhaps tomorrow our situation and the conditions here surrounding us will be different. So, does the Commissioner not think that a legislative act gives us more flexibility to change direction, to adjust our sails according to the winds so that we will not drown and sink?

MS. AQUINO. Madam President, the foreign policy of neutrality is, for the committee, the ultimate expression of a sovereign will of the people and is inspired by the instinct of survival. I suppose we cannot argue on that. I think the root of our difference is a misunderstanding of the concept of neutrality.

The committee articulated during the sponsorship period that neutrality is a policy or a status of a nation which: 1) advocates peace; 2) opposes a policy of war and aggression; 3) refuses to align itself with military blocs; and 4) is dedicated to the relaxation of peace. There is flexibility that can be read into this kind of foreign policy.

MR. ABUBAKAR. Then why do we have to tap it by declaring neutrality? The Commissioner has enumerated all the reasons for our policy direction which are acceptable to most of us. But what I object to is to enthrone that conflict in the Constitution.

MR. TINGSON. Madam President, Commissioner Garcia would like to add something to this subject.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Thank you, Madam President.

It is precisely for historically determined reasons that we have to declare a policy of neutrality. Throughout the century, we have, in fact, been either a colony of a colonial power or under its wing. In fact, in the 1935 Constitution, Section 11 of the first ordinance, the Independence Act or the Tydings-McDuffie Law, there was already a move towards a declaration of perpetual neutralization but which was violated. I think we have to realize that for our own survival, it was important for the Philippines to be declared neutral even at that early period of 1935. But this was violated because of the entrance of the bases and the fact that from then on, we have become part of a military power bloc because of our nuclear strategy. We are now part of the nuclear strategy of a power bloc but we do not wish to be part of this.

That is the reason we feel we should strive towards a declaration of a zone of peace, freedom and neutrality in this part of the world as our own contribution to nuclear disarmament and world peace. I think that is very important.

MR. ABUBAKAR. I do not disagree with Commissioner Garcia's conception and assessment of the situation that we are in now. What I perceive is that the Constitution is not the place or the document wherein this position we are advocating should be incorporated. Times are changing; situations are changing. Who knows what Asia will be next year? So, why do we preclude our hands from fashioning a policy that will be for our interest against the interest of any power?

THE PRESIDENT. During the period of amendments, the idea of Commissioner Abubakar can be submitted in the form of an amendment to the committee. But the Chair believes that the committee has sufficiently explained the rationale behind the committee report.

Who is the next speaker?

MR. ROMULO. Madam President, I ask that Commissioner Natividad be recognized.

THE PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. Ginang Pangulo, ako po ay nagrereserba ng pagkakataong magsalita tungkol sa mungkahi ni Komisyonado Rodrigo, ngunit hindi ako nagkaroon ng pagkakataon sapagkat napakaraming nauna sa aking magsalita. Kaya't ako ay nagpapasalamat sa ating Floor Leader dahil binigyan ako ng pagkakataon ngayon na ilagay ko sa katitikan ng Komisyon na ito ang aking loobin tungkol sa Section 3 at sa mungkahi ni Komisyonado Rodrigo. Naniniwala akong sapagkat isinulat ko ito noong simula pa, nasabi na ang halos lahat, ang matuwid at saligan ng sang-ayon at maging ng tutol sa pamamalagi pa rito ng mga himpilang hukbo ng Amerikano. Gayunpaman, magiging malaking pagkukulang ko sa tungkulin bilang Komisyonado ng mabunying kapulungang ito kung hindi ko ilalagay ang ambag, ang butil ng binhi na inihahasik natin sa kapakanan ng mga susunod pang salinlahing Pilipino.

Kakambal pa ng pagpasok ni Commodore Dewey sa look ng Maynila noong 1899 ang pagsibol ng suliraning ating tinatalakay ngayon sapagkat ibigin man natin o hindi, kung baga sa isang dalaga, ang Pilipinas ay isang tunay na mutya ng kariktang maraming puso ang nagnanais makasungkit ng matamis niyang "oo." Nasa sangandaan tayo ng Karagatan ng Tsina, ng Pasipiko at ng Selebes. Nasa isang pook ang ating bayan na lubhang mahalaga sa larangang panghukbo. Kaya naman sa mula't mula pa, maraming dayuhan ang nabibihag sa atin.

Mula pa noong 1898 hanggang sa mga sandaling ito, umaalitubtob na lagi ang usapan tungkol sa mga base militar na ito. At noong 1933, ito ang laman ng Hare-Hawes-Cutting Bill na tinutulan ng sambayanang Pilipino, at ng Tydings-McDuffie Law noong 1934.

Ang maniningning na kaisipan ng ating mga dakilang ninuno ay iniambag sa pagsusuri, paglilimi at pag-aaral sa kasunduang ito. At hindi naman masasabi ng sino man sa atin dito at sa labas ng bulwagang ito na ang ating mga ninuno at magulang ay kapos sa pag-ibig sa bayan o nakasangkapan upang ipagkanulo ang ating bayan. Nag-aalinlangan akong sabihing tayong apatnapu't pito rito ang siyang dapat magpasiya ngayon kung tatapusin na ang pamamalagi ng base militar dito sa ating bansa matapos na ito ay pag-aralan ng napakaraming taon ng ating mga magulang at ninuno. Huwag nang isaalang-alang ang 42,265 kataong kababayan nating empleyado ng mga baseng ito, bukod pa sa 900 na kontratista. Mayroong 500,000 kababayan tayong nakikinabang sa mga base; ang isipin na lamang natin, lalo na sa mga panahong itong nakalugmok ang kabuhayang bansa, ang isang bilyong dolyar na katumbas ng dalawampung bilyong pisong pakinabang ng Pilipinas sa baseng ito.

Maraming taon na ang nagdaan mula nang sumulpot ang suliraning ito. Maraming utak ng lalong matatalino nating ninuno at magulang ang piniga upang ilagay sa ayos ang suliraning ito. Kung taon ang binilang nila, ano naman at sa isang iglap tayong apatnapu't pito na sa loob ng dalawang linggo ay maghihiwa-hiwalay na, magkakanya-kanyang landas, ang magwiwikang ngayo'y kayang-kaya nating tapusin ito at lutasin agad. Hindi kaya sa pagmamadali natin, maiwan natin at makaligtaan ang maraming bagay na bukas makalawa, magbubunga at maghahatid ng lalong mga susun-susong suliranin ng ating sambayanang Pilipino?

Sabi ni Ambassador Pelaez, limang taon ang kailangan upang maging tunay na handa sa pag-uusap ang mga taong may tunay na kakayahan at kaalaman sa suliraning ito. Huwag tayong magmadali sapagka't wika nga ng kasabihang Pilipino, "Ang lumalakad nang matulin, kung matinik ay malalim." Kaya't mga kasama, itinataguyod ko ang mungkahi ng kapatid na Komisyonadong Rodrigo na ipaubaya sa pamahalaan ang maaaring lumikha ng lupong bubuuin ng mga sadyang may kinalaman at kakayahang tauhan ng Ministri ng Tanggulang Bansa, Ministri ng Suliraning Panlabas, Ministri ng Pananalapi at Ministri ng Katarungan, upang pag-aralan, matamang limiin, suriin at paraanin sa lalong masinsing bistay at lambat mula ngayon hanggang 1991, upang maging tunay tayong handa sa pag-uusap at kahit sa pakikipagbunong braso sa mga Amerikano tungkol sa mga himpilang hukbong ito.

At matapos itong pag-usapan, matapos na magkasundo ang dalawang panig, pinakamahalaga sa ating ipaubaya sa buong sambayanang Pilipino ang pangwakas na pasiya o ang pagpapatibay sa kasunduang ito na ang kasamang nakataya ay ang buhay, kapalaran at kinabukasan ng kasalukuyan at mga sumusunod pang salinlahing Pilipino.

Salamat po, Ginang Pangulo.

MR. GASCON. Madam President.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. Yesterday, I made mention that today, September 16, is the International Day of Peace, and that one project related to the International Day of Peace is the observance of a million minutes of peace which will begin at 12:00 noon. So I would like to make the motion that we reflect on the struggle for peace of all our brothers and let us remind ourselves that Christ Himself offered His peace to us.

So, at twelve noon, if it is possible, let us commemorate this day of peace.

THE PRESIDENT. The motion was already presented by Commissioner Gascon yesterday and it was seconded; now it is being reiterated.

Is there any objection that this Commission during its session this morning will observe a one-minute silence for the purpose of joining the rest of the world in the United Nations celebration of International Day of Peace at twelve noon today?

MR. TINGSON. Madam President, the entire Committee on Preamble, National Territory, and Declaration of Principles seconds the motion.

THE PRESIDENT. As it is now twelve o'clock, let us devote this one minute to silent meditation and prayer for peace, and we invite all those in the gallery to join us in this one minute of silence.

Everybody rose for a one-minute prayer.

Let us pray that the Lord may grant peace to the world, to all mankind, but most specially to the Filipino people and to our country. Amen.

MR. GASCON. I would like to offer this prayer of St. Francis:

Lord, make us all Your instrument of peace;
Where there is hatred, let us bring love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light;
Where there is sadness, joy.
Lord, make us all Your instrument of peace.

MR. ROMULO. Madam President, I ask that Commissioner Sarmiento be recognized.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Thank you, Madam President.

May I address a few questions to the committee, particularly to Commissioners Nolledo and Azcuna. May I request the presence of Commissioner Nolledo?

THE PRESIDENT. Are there questions that Commissioner Sarmiento desires to propound?

MR. SARMIENTO. Madam President, my first question is with respect to the concept of sovereignty. We have four types of sovereignty; namely, legal sovereignty, political sovereignty, internal sovereignty and external sovereignty. May I focus on political sovereignty.

Political sovereignty refers to the supremacy of the law of the State within its territory. The basis of such supremacy is physical control of people and territory emanating from physical power. It is also understood to mean the supreme coercive power exercised by a determinate body of persons possessing a monopoly of certain instruments of coercion. My question, Madam President, is this: Does Commissioner Nolledo agree with me that the existence of the military bases in our country is a derogation of this kind of sovereignty?

MR. NOLLEDO. Yes, Madam President, because of the many one-sided provisions, especially on jurisdiction found in the RP-US Bases Agreement.

MR. SARMIENTO. May I mention some of these articles. For instance, Article III, DESCRIPTION OF RIGHTS, of the Agreement provides:

> It is mutually agreed that the United States shall have the rights, power and authority within the bases which are necessary for the establishment, use, operation and defense thereof or appropriate for the control thereof and all the rights, power and authority within the limits of territorial waters and air space adjacent to, or in the vicinity of, the bases which are necessary to provide access to them, or appropriate for their control.

Article VI, MANEUVER AND OTHER AREAS, reads:

> The United States shall, subject to previous agreement with the Philippines, have the right to use land and coastal sea areas of appropriate size and location for periodic maneuvers, for additional staging areas, bombing and gunnery ranges and other intermediate air fields . . .

I think Commissioner Nolledo is referring to this article. Am I correct?

MR. NOLLEDO. Yes, Madam President. The United States has an untrammeled right to exercise jurisdiction in that respect in all parts of the country, and while a Filipino may not enter a Filipino military base because he might be considered a spy, a member of the United States Armed Forces under the RP-US Bases Agreement may enter any military installations belonging to the Republic of the Philippines. One can just imagine the great disparity of rights between a Filipino and an American in complete derogation of our political sovereignty.

MR. SARMIENTO. Madam President, my question is with respect to Section 2 which reads:

> The Filipino people commit themselves to peace, equality and freedom. They renounce war as an instrument of national policy and adopt the generally accepted principles of international law as part of the laws of the land.

Will renunciation of war or adherence to peace mean nonparticipation in any way to any form of hostility? Would this include not allowing foreign bases in our territory as staging areas for attacking other countries?

MR. NOLLEDO. I agree with the Gentleman. It seems to me that with that opinion, even if we do not say here that foreign military bases should not exist in the country, the existence of foreign military base in itself will infringe upon the principle and spirit behind Section 2 of the Declaration of Principles.

MR. SARMIENTO. I thank the Gentleman for that answer.

I am reminded of incidents in the past when American bases were used on countless occasions as staging areas for attacking other countries. During the Korean war, the bases were used as maintenance stations for American ships and aircraft and as supply depots during the rightists' coup against Sukarno. Allan Pope flew for the CIA AP-26 from Clark to help crush the Indonesian nationalist forces. In August 1964, US planes were flown from Clark to bomb the Vietnamese countryside, including certain towns and cities.

MR. NOLLEDO. Madam President, those acts of the United States were violative of the Constitution of the Philippines, not only of the 1935 Constitution, but also of the 1973 Constitution, and if these acts continue, then they will be also violative of the Constitution of 1986. Any President who cooperates in the violation thereof should be guilty of an act that constitutes a basis for impeachment.

MR. SARMIENTO. May I proceed to another question, Madam President?

MR. TINGSON. Madam President, some of the members of our committee would probably say, and that includes me, that one way of preserving peace sometimes is to go to war. We all talk of the impending war, but World War I and World War II were precisely waged by the United States and other nations to end wars, and hopefully, that there might be permanent peace.

Many a time, Madam President, democratic, peace-loving nations like us are forced to the corner, so to speak, and we cannot but preserve our integrity as a country, so we go to war. Some of us would say that because precisely we want peace, we have to go to war although that may not be the best way to preserve peace.

MR. SARMIENTO. I will not contest the answer of the Gentleman, although I have reservations.

MR. NOLLEDO. As far as I am concerned, I am not bound by the answers of the acting chairman.

MR. ABUBAKAR. May I raise a question on the statement of the chairman?

THE PRESIDENT. May I request the Commissioners to seek permission from the Chair, if they wish to interpellate or interrupt because we still have one Member on the floor.

MR. SARMIENTO. Thank you, Madam President.

The same section speaks of generally accepted principles of international law as part of the laws of the land. Madam President, will this cover the right to self-determination?

MR. NOLLEDO. Yes, as embodied in the U.N. Charter.

MR. SARMIENTO. And will this include maintaining international peace and security, and to that end take effective collective measures for the preservation and removal of threats to the peace?

MR. NOLLEDO. Yes.

MR. SARMIENTO. And will this cover the principle enshrined in Article XVI of the Charter of Economic Rights and Duties of States which states, "individually and collectively should eliminate neo-colonialism and all forms of foreign domination"?

MR. NOLLEDO. Certainly, Madam President.

MR. SARMIENTO. Will Commissioner Nolledo agree with me that these principles are contradictory to the existence of foreign military bases in our country?

MR. NOLLEDO. Yes, and as I said before, even without providing that foreign military bases should not exist in the country, the existence of the American bases would contradict those principles of international law just cited and which we have adopted as part of the law of the land.

MR. SARMIENTO. Thank you.

My last question is on Section 9 which speaks of the obligation of the State to protect the life of the mother and the life of the unborn from the moment of conception. Will the Gentleman agree with me that this is a companion provision of Sections 1, 2 and 3 of the article, because we cannot speak of the right to life of the unborn in the face of nuclear annihilation or a nuclear extinction? So that it would be useless to approve this section without approving Sections 1, 2 and 3. Will Commissioner Nolledo agree with me?

MR. NOLLEDO. I fully agree with the Commissioner, Madam President.

MR. SARMIENTO. Thank you.

MR. ROMULO. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

At the outset, I am worried about the answer of Commissioner Nolledo to the questions of Commissioner Sarmiento, so I am seeking this clarification. Are we to understand, Madam President, that the totality of sovereignty in Section 1 and the principle of renunciation of war as an instrument of national policy, as well as the acceptance of the principles of international law as part of the law of the land, would, in effect, be sufficient against the retention of Section 3? Does this mean that because of the Gentleman's answers to the question of Commissioner Sarmiento on sovereignty, on renunciation of war and the adoption of the generally accepted principles of international law, Section 3 may not be necessary?

MR. NOLLEDO. No, Madam President. I never intended that. I just wanted to point out that even without that provision, the existence of the American bases would be illegal in the Philippines. But if we will look at the provisions that have just been cited, we cannot readily conclude that the existence of foreign military bases in the country is illegal. And that is the reason we are making it clear that the Philippines should prohibit emphatically the existence of foreign military bases in the country.

MR. DAVIDE. I like that answer because there was some confusion in the answers given to Commissioner Sarmiento. And so, even if we have to concede the totality of sovereignty in the sense stated by Commissioner Sarmiento, even if we have to concede the full meaning of renunciation of war as an instrument of national policy, even if we have to concede the breadth and width of the meaning of the adoption of the generally accepted principles of international law, it is still necessary that we place in black and white a position or a principle against the maintenance of bases.

MR. NOLLEDO. The Commissioner is absolutely right.

MR. DAVIDE. Madam President, there is a contention that we have to leave to the President and to Congress the matter of the issue on the bases because we are merely appointed Commissioners and we do not supposedly have the necessary materials on which to base a decision on the matter.

Is it not a fact that insofar as the bases are concerned, the Filipino people had been fighting against them long before the Second World War?

MR. NOLLEDO. The Commissioner is right. Even the past presidents had been silently fighting against the existence of foreign bases in our country; they were only afraid of the United States, that was why they could not fight openly.

MR. DAVIDE. As a matter of fact, the Filipino people in the 1930s rejected the Hare-Hawes-Cutting Act because of provisions serving military, naval and other reservations which are inconsistent with true independence, violative of national dignity and subject to misunderstanding.

MR. NOLLEDO. Commissioner Davide is right.

MR. DAVIDE. Nevertheless, is it not a fact that even in the Tydings-McDuffie Law, the United States expressed the fullest intention to place the Philippines under the principle of perpetual neutralization?

MR. NOLLEDO. Yes, there was a provision in the Tydings-McDuffie Act authorizing the President of the United States to negotiate for perpetual neutralization of the Republic of the Philippines.

MR. DAVIDE. And that was, therefore, the obligation of the United States government?

MR. NOLLEDO. Yes, that was an obligation which was not fulfilled.

MR. DAVIDE. A solemn and sacred obligation; as a matter of fact, a commitment to the Filipino people yet under colonial rule.

MR. NOLLEDO. A commitment that was not fulfilled.

MR. DAVIDE. It was even a promise to a people under colonial rule.

MR. NOLLEDO. A promise that was not fulfilled.

MR. GARCIA. Madam President, I would like to add to that point. This was, in fact, included in the 1935 Constitution, in Ordinance I, Section 3, where all of the elements of the Tydings-McDuffie Law or the Philippine Independence Act were made part of the Constitution. It is, therefore, the obligation of the Filipino people. But this was violated.

MR. DAVIDE. In other words, Madam President, it was an obligation of a sovereign power, a sacred and solemn duty to a colonial people. But it became the right of a colonial people to attain and be given that status.

And so, necessarily, would Commissioner Nolledo consider that agreement as a treaty, when after the Tydings-McDuffie Act was approved, came this 1947 RP-US Bases Agreement?

MR. NOLLEDO. They say that it is an executive agreement, but I disagree because an executive agreement is only transitory in character and concerns such matters as customs, trade, et cetera. But the RP-US Bases Agreement concerns our very sovereignty and jurisdiction, so I would not consider that a valid treaty. Even if it had been considered a treaty, it was never ratified by the Senate of the United States. It seems to me that in that respect, the Senate of the United States did not believe in the validity of the treaty; it was only the Philippine government which ratified the same at a time when we could not muster sufficient national will to oppose the same.

MR. DAVIDE. Madam President, my point is, legally, jurisprudentially, it was particularly in the nature of a treaty because it affected the sovereignty, the national integrity of the Philippines. Is that not correct?

MR. NOLLEDO. The Gentleman is right, Madam President.

MR. DAVIDE. Yet, what actually happened was that the Congress merely passed a resolution authorizing the President to enter into the treaty. Is that not correct?

MR. NOLLEDO. Is the Gentleman referring to the Congress of the U.S.?

MR. DAVIDE. I refer to the first Philippine Congress which, after the war, decreed a resolution authorizing the President to enter into the treaty.

MR. NOLLEDO. Commissioner Davide is right. That resolution was dated July 28, 1945.

MR. DAVIDE. And after the resolution was somehow complied with by the President, the agreement was never submitted to the people by way of a plebiscite.

MR. NOLLEDO. It was not submitted to the people.

MR. DAVIDE. Even if it was, in truth and in fact, a treaty?

MR. NOLLEDO. Yes.

MR. DAVIDE. So, necessarily, the 1947 Agreement was void from the very beginning not only because of the absence of a ratification because it was, in fact, a treaty, but also because of the open defiance or, rather, the open rejection of the United States to comply with a solemn and sacred duty.

MR. NOLLEDO. Aside from that, I think the RP-US Bases Agreement of 1947 violated the 1935 Constitution, which contained as an ordinance thereof the Tydings-McDuffie Act.

MR. DAVIDE. So that is an additional ground why it was void from the very beginning.

MR. NOLLEDO. And when it is null and void, it does not exist at all; it cannot even be ratified.

MR. DAVIDE. And so, the further renegotiations had no legal standing because the source or the basis was void from the beginning?

MR. NOLLEDO. The Commissioner is right.

MR. DAVIDE. Was the latest negotiation in 1982 or 1983?

MR. NOLLEDO. 1983, Madam President.

MR. DAVIDE. Granting, for the sake of argument, that the previous agreement or treaty was valid, the renegotiation was undertaken under the 1973 Constitution, Madam President. Is that not correct?

MR. NOLLEDO. Yes, the Commissioner is correct.

MR. DAVIDE. And the Freedom Constitution has declared that the 1973 Constitution was not validly ratified. Does the Commissioner agree, Madam President?

MR. NOLLEDO. I agree, because I was a member of the 1971 Constitutional Convention and the Commissioner was also a member of that convention.

MR. DAVIDE. Yes. So the 1973 Constitution was not validly ratified and this particular fact is confirmed by the Freedom Constitution?

MR. NOLLEDO. That confirmation is right, Madam President.

MR. DAVIDE. And since the President of the Philippines entered into this latest renegotiation under a void constitution, his act, therefore, did not attain any valid and legal effect?

MR. NOLLEDO. Yes, Madam President.

MR. DAVIDE. It is, therefore, with more reason that we have to strike out this illegal and void agreement, and it is, therefore, the distinct duty of this Commission to decide once and for all the matter so we will not perpetuate what Commissioner Garcia described to be a historical aberration.

MR. NOLLEDO. The Commissioner is right, Madam President.

MR. DAVIDE. Even if we are merely appointive, our work will still be submitted to the people and we have to decide now and for the people to decide once and for all. Is that not correct, Madam President?

MR. NOLLEDO. Yes, Madam President.

MR. DAVIDE. I will go to another point.

MR. TINGSON. Madam President, before Commissioner Davide continues his question, may I interject something?

THE PRESIDENT. Commissioner Tingson will please proceed.

MR. TINGSON. This is apropos of the debate just a while ago.

MR. DAVIDE. Madam President, may I inquire before an interjection is made. Is it an answer to my question?

MR. TINGSON. Yes, Madam President.

MR. DAVIDE. Is it an answer different from that of Commissioner Nolledo who spoke for the committee?

MR. TINGSON. It would be different. Precisely, I am trying to get this word to interject because the answers of Commissioner Nolledo did not reflect the unanimous feeling and opinion of the committee. And I thought I would say something, humble as it might be, to at least reflect the feeling of the minority.

THE PRESIDENT. The Commissioner will please proceed.

The body knows that the committee has two dissenting views on these issues and, therefore, we will allow the chairman to answer.

MR. TINGSON. Madam President, I concede that the Tydings-McDuffie Law did provide a suggestion from the United States government – and which was the basis later on of the Commonwealth – that the Philippine government would become neutral.

However, Madam President, my feeling and opinion is that after we accepted the Tydings-McDuffie Law, we became a commonwealth in 1935, a nation on our own to make up our own mind. I believe that looking back, the Filipino people are grateful that we did not opt for neutrality, because if we did, we would have been in an embarrassing situation when the Japanese bombed Pearl Harbor and Camp John Hay and violated the sovereignty of the Philippines. I say this because as a neutral country, we would not be able to come to the succor and help of our ally, the United States. It would have been further embarrassing if only American blood had been shed in defense of this country that was being invaded by our common enemy.

Madam President, while it is true that there was a neutrality clause in the law, I maintain that it was a suggestion by the United States that the Filipino people take up arms. Our response was that we will not be neutral; we will fight on the side of democracy. And I am glad that we did. In the foxholes of Bataan and Corregidor, thousands of our fellowmen mixed their blood with the blood of the American soldiers.

It may be true that the American soldiers were here to defend their country, but they did fight on Philippine soil beside the Filipinos.

That is my own perception, Madam President, and I thought I would say that by way of interjecting, at least, part of the feelings of the minority members of the committee with regard to Sections 2 and 3.

MR. DE CASTRO. Madam President, I am a member of the committee with a minority view. I just like to ask one question of the Honorable Nolledo.

THE PRESIDENT. Commissioner de Castro will please proceed.

MR. DE CASTRO. Madam President, the Honorable Nolledo said that the RP-US Bases Agreement is void *ab initio*, void right from the very beginning. Did I hear him correctly?

MR. NOLLEDO. That is the view of Senator Diokno and Commissioner Davide. The Commissioner is correct, Madam President.

MR. DE CASTRO. So in the adoption by Commissioner Nolledo of that view, he views the RP-US Bases Agreement as void from the very beginning.

MR. NOLLEDO. Yes, Madam President.

MR. DE CASTRO. Then, what is the relevance of lines 29 to 31, page 5, which state·

> Upon the expiration of the RP-US Bases Agreement in 1991, foreign military bases, troops and facilities, shall no longer be allowed in any part of the Philippine territory.

The committee is then accepting the validity of the RP-US Bases Agreement up to 1991. Am I correct in my interpretation?

MR. NOLLEDO. Not necessarily, because we consider that the agreement exists, in fact, but it is not valid. It is a *de facto* agreement. We cannot deny that we cannot go against realities. We cannot just say that there is no agreement at all. There is an agreement but it is null and void. We feel that there existed an agreement; an agreement that exists, in fact, but not valid and, therefore, a *de facto* agreement.

MR. DE CASTRO. If it is not valid, therefore, the provision has no relevance in the Constitution. In the Constitution, we accept valid agreements, valid statements, valid on everything and yet we say that this RP-US Bases Agreement is void *ab initio.* So the provision has no relevance at all.

MR. NOLLEDO. I beg to disagree, Madam President. We recognize the existence of the agreement because we cannot go, as I said, against reality. So there must be some provision in order to facilitate the passing away of this agreement, which we still consider null and void.

THE PRESIDENT. Commissioner Davide will please continue.

MR. DAVIDE. Yes, Madam President. Before doing so, I would just like to comment on the interjection of Commissioner Tingson. My comment to the interjection is that until now, I really do not know whose war was the World War II insofar as the Philippines is concerned. I feel that it was a war of the United States. We lost lives in defense of America; the Americans did not lose lives, in reality and in truth, to save the Philippines. It only protected its own interest. Anyway, I have here the *Foreign Relations Journal* which contained the article of Ambassador Emmanuel Pelaez. Apropos of the statements of Commissioner Tingson, I would quote the following:

> Unfortunately for the Philippines, the ambience in which the negotiations for the military bases agreement took place worked against her. She had just been devastated by over three years of Japanese occupation and war. Her cities and towns were in shambles, her people hungry. She was totally dependent on the United States for her rehabilitation. On the other hand, America had emerged from the conflict as the strongest nation in the world, champion of the free world. This disparity in situations reflected itself in the terms of the Military Bases Agreement. It was not so much a treaty between two sovereign nations as it was the extension of American sovereignty in the Philippines through the establishment of U.S. enclaves of extraterritoriality on her soil. The terms of the Military Bases Agreement were of prewar colonial vintage. Filipinos accepted the bases as a necessary evil.

So I would say that even if there is such a provision in the proposed Article on the Declaration of Principles which recognizes the treaty up to its expiration, it is more of an accommodation. It is not indeed a recognition of its validity from the very beginning.

My next question is with regard to Commissioner de Castro's speech. Madam President, I went over his sponsorship speech and I found out that his main thesis is that the American bases would necessarily be for the protection of the Philippines. In short, it is necessary to protect the Philippines. Am I correct in my assessment, Madam President?

MR. DE CASTRO. I suggest that the Commissioner read it again because that is not the main issue.

MR. DAVIDE. That is one of the principal arguments the Commissioner gave — the protection of the Philippines. Or, is it the protection of Japan because he said, and I quote:

> As I said before, about 92 percent of Japan's oil supply passes through these choke points to China Sea. If these choke points are closed or controlled by a superpower, Japan's oil supply will have to travel halfway around the world. Eventually, Japan's economy has to fall on its knees to the power that control said choke points.

Japan is a power recognized in Asia. Am I correct?

MR. DE CASTRO. Madam President, I am talking of the strategic value of the Philippines. I am not talking of the bases to protect the Philippines. I am pointing on the strategic value of the Philippines which concerns the whole mainland of Asia, Japan and the Southeast Asian countries.

MR. DAVIDE. Yes, we agree. And the value of the Philippines in that regard would benefit Japan because about 92 percent of Japan's oil supply passes through these choke points to China Sea.

MR. DE CASTRO. I am not talking of the benefits that will go to Japan, but of the strategic value of the Philippines.

MR. DAVIDE. It is strategic in the sense that it will, among others, protect the choke points, which would benefit Japan?

MR. DE CASTRO. Not only Japan but the whole Asian region because about one-half of our oil supply and more than 90 percent of the strategic materials for Asia and the Asia mainland pass through these choke points.

MR. DAVIDE. Precisely, Madam President. The bases must be maintained in the Philippines in order that these choke points can be protected and that Japan will not be deprived 92 percent of its oil supply.

MR. DE CASTRO. No, Madam President. I invite the Commissioner's attention to page 2 of my sponsorship speech, captioned "The Strategic Importance of the Philippines."

MR. DAVIDE. Yes, I have gone over it and, among others, the conclusion is about Japan.

MR. DE CASTRO. Madam President, when we talk of strategic value, we are not talking of the benefit that another country will take. It is the strategic value of a certain country so located in strategic place. Its value is to the region, not to any particular nation.

MR. DAVIDE. Precisely, Madam President.

MR. DE CASTRO. It just so happens that Japan takes 92 percent of its oil from the Middle East.

MR. DAVIDE. The strategic value depends not on the perception of the Philippines because, in effect, the Philippines is not the *salvador del mundo* of this area.

MR. DE CASTRO. No, Madam President. When we talk of strategic values, we are not talking of perception but of facts and figures.

MR. DAVIDE. That is correct, but perception is based on facts. The perception that the Philippines is a strategic location or of strategic value is a perception of the United States of America. I would like to bring the Commissioner's attention to the latest statement given by U.S. Defense Minister Casper Weinberger in the article "The Five Pillars of Our Defense Policy," which was published in the *Asia-Pacific Forum,* and I quote:

> The foundation stones underlining our Pacific policy include: First, the key importance of our security relationship with Japan.
>
> Second, our commitment to stability in the Korean Peninsula.
>
> Third, our efforts to build an enduring relationship with the People's Republic of China.
>
> Fourth, our support for the political and economic vitality of the Association of Southeast Asian Nations.
>
> Fifth, our long standing partnership with Australia and New Zealand.

Madam President, does not the Commissioner believe that under these five pillars of defense policy, the Philippines will be used only as a strategic point to protect the interests of these areas?

MR. DE CASTRO. Madam President, the Commissioner is talking of the strategic and tactical wisdom of Mr. Weinberger. I am talking of the strategic importance of the Philippines not of the strategic and tactical wisdom of Mr. Weinberger.

MR. DAVIDE. Whatever it is, this is a U.S. policy announcement, its five pillars of defense policy. Whether strategic or tactical, the fact is that the maintenance of the bases in the Philippines is not for the Filipinos but for the Americans.

Thank you very much, Madam President.

MR. DE CASTRO. On the other hand, may I ask a question of the Honorable Davide regarding his statement that World War II is a war of the United States of America and not of the Philippines. Madam President, does the Commissioner know that on September 8, 1942, the Japanese forces landed in the Philippines?

MR. DAVIDE. I was very, very young at that time, Madam President.

MR. DE CASTRO. That is the problem, Madam President. People born in 1964 talk about World War II.

MR. DAVIDE. But history points out that the Japanese came to the Philippines because the Americans were here and they have bases here.

MR. DE CASTRO. If they landed in the Philippines and, in fact, they landed in Lingayen Gulf and in the Province of Quezon, were they not violating our sovereignty? Were they not violating our dignity as a people?

MR. DAVIDE. At that time, there was a violation, in like manner there was from the Americans.

MR. DE CASTRO. Shall we not, therefore, fight the invaders even if it is a war of the United States, of Switzerland, or of Britain? The fact is that they invaded our territory, sovereignty and dignity as a people.

MR. DAVIDE. There can be no question that we have to fight. But the idea here is to find out the cause, to determine what was the cause. So we have to consider the cause and the effect. What was the cause? We have to shoulder the effect. We have to remedy the situation.

MR. DE CASTRO. When enemy forces land in our shores, we do not think of the cause. We think of fighting and repelling them. This is the reason we went to war against the Japanese because they invaded our country.

MR. DAVIDE. Probably at that time, there was no time to think of the cause.

THE PRESIDENT. I think the matter has sufficiently been discussed.

MR. GUINGONA. Madam President, may I be allowed to ask one question of the honorable Commissioner Davide?

MR. DAVIDE. Madam President, I was only interpellating the members of the committee. I do not know whether or not it is in accordance with the Rules that an interpellator can also be interpellated.

THE PRESIDENT. Commissioner Davide is correct.

MR. GUINGONA. This is by way of clarification only, Madam President. Anyway, I submit.

SUSPENSION OF SESSION

MR. ROMULO. Madam President, in view of the time, may I ask a suspension?

THE PRESIDENT. The session is suspended.

It was 12:42 p.m.

RESUMPTION OF SESSION

At 4:39 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that we offer a one-minute prayer for the speedy recovery of the father of one of our colleagues.

THE PRESIDENT. We request Commissioner Tingson to lead the prayer for the speedy recovery of the father of Commissioner Felicitas Aquino.

MR. TINGSON. Our Dear Loving Heavenly Father, You are the Source of every good and perfect gift. You are the One who gives us life, health, happiness, joy. You give life, You take life, and we rejoice in that. We know that You are the Greatest Physician who made the blind see, the lame walk, You touched the leper, he was made good. You are able to do the same today because You are the same yesterday, today and forever.

Father, across the vast expanse of the Pacific, ten thousand miles from here, we project our thoughts and our prayers towards Mr. Aquino, who has just been operated on in Houston, Texas. He is all alone there away from his country, from his family. We join our hearts, those Commissioners amongst us here in this Commission, and the public joining us today, and in unison we beg of You, touch him, Dear Lord, heal him and be very near him, console him with Thy divine and healing presence.

This we believe You will do, for we exercise our faith which is seeing the invisible and believing the impossible. Thank You, Lord. We all pray all of these in the Loving and Matchless Name of Jesus Christ, Our Lord. Amen.

MR. RAMA. Madam President, I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

May I go very briefly in seeking clarification on some provisions. May I call attention to Section 1. I wonder who among the members of the committee would like to clarify this question regarding the use of the word "democratic" in addition to the word "republican." Can the honorable members of the committee give us the reason or reasons for introducing this additional expression? Would the committee not be satisfied with the use of the word "republican"? What prompted it to include the word "democratic"?

MR. TINGSON. Madam President, Commissioner Nolledo will answer that.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Madam President, I think, as a lawyer, the Commissioner knows that one of the manifestations of republicanism is the existence of the Bill of Rights and periodic elections, which already indicates that we are a democratic state. Therefore, the addition of "democratic" is what we call "pardonable redundancy," the purpose being to emphasize that our country is republican and democratic at the same time. When we use "democratic," we do not use it in the lingo of socialist or communist states because even they also use "democratic." "Democratic" will attain its true meaning if we consider it in the light of the manifestations of republicanism. In the 1935 and 1973 Constitutions, "democratic" does not appear. I hope the Commissioner has no objection to that word.

MR. SUAREZ. No, I would not die for that. If it is redundant in character but it is for emphasis of the people's rights, I would have no objection. I am only trying to clarify the matter.

Madam President, I thank the Commissioner for the clarification because he was candid enough to admit that this is redundant in character but, nonetheless, he emphasized the necessity of including it in Section 1.

MR. NOLLEDO. I also thank the Commissioner, Madam President.

MR. SUAREZ. The other clarification is on Section 2. Instead of using the objective term "Philippines," the committee is now using the subjective term "Filipino people," which is really a very good expression and more emphatic. But my problem is with respect to the addition of the term "peace, equality and freedom" because under the 1973 Constitution, the term employed was "justice, cooperation and amity with all nations." Madam President, may we know the reason for deleting this term which is as vital as "peace, equality and freedom," especially the expression "amity with all nations."

MR. NOLLEDO. Madam President, the reason we deleted the term is that it is already covered by "peace" and "equality." For example, equality among nations indicates that regardless of their sizes, all nations are equal with each other as embodied in the UN Charter. With respect to friendship with all nations, we assume that there is peace when friendship among nations exists. However, if the Commissioner feels it is necessary to retain said term, we will welcome amendments to that effect at the proper time.

MR. SUAREZ. I thank the Commissioner. May I now go to Section 3. The wording here is not positive in the sense that while the State may pursue an independent course in foreign relations, it is mandated to strive to promote and establish, together with other states agreeable thereto, a zone of peace, freedom and neutrality in this part of the world. I take it that we are not really stating here that we are establishing an area or a zone of neutrality but that we are only striving to promote and establish a zone of peace, freedom and neutrality. Is my understanding correct, Madam President?

MR. NOLLEDO. Yes, the Commissioner is correct. In this section, we are stating a desired objective to establish, together with other states, a zone of peace, freedom and neutrality but we would like, together with the other nations, to make our own contribution to world peace. We feel the position of neutrality will help towards this desired objective. It is not a unilateral declaration of neutrality but a declaration of a desired objective.

MR. SUAREZ. I thank the Commissioner for the clarification because I thought he had in mind a unilateral achievement of this goal. So it must be a joint effort with other states which are also part of the region or zone.

The other clarification is with respect to Section 4 which employs the words "storing" and "stockpiling of nuclear weapons, devices or parts thereof." What is the committee's reason in employing the word "storing" as distinguished from "stockpiling"?

MR. AZCUNA. Madam President, these are technical terms taken from treaties or agreements regarding nuclear weapons. They are used to denote the manner of placing these nuclear weapons in a territory. There is a technical difference, Madam President, that is why we use the two words.

MR. SUAREZ. To a common man like I, I do not see any substantial difference between "storing" and "stockpiling," but if the Commissioner assures us that there is a technical meaning to the word "storing" as distinguished from the technical word "stockpiling," then we accept his statement, Madam President.

MR. AZCUNA. Yes, there is, Madam President. I can show the Commissioner the two treaties I mentioned.

MR. SUAREZ. In other words, there is a need to use these two words separately.

MR. AZCUNA. Yes, Madam President.

MR. SUAREZ. Let us go to Section 6, line 13, which states: "with due regard to objections of conscience." This has reference to citizen's military training for performance of military duties and to matters involving not only conscience but also religion. Is my understanding correct, Madam President? I remember that Cassius Clay, who later became the famous Muhammad Ali, during the Vietnam War, pleaded that he should not undergo military training because of certain religious concepts as a Muslim. Does the Commissioner have those things in mind when he speaks of "objections of conscience"? There may be religions that forbid the members of their denominations or sects from participating in this military exercise.

MR. TINGSON. Madam President, we take it, of course, that that would fall within "objections of conscience" because religion involves the conscience of a person and there are religious sects that, in their doctrinal dogmas or statements of doctrines, specifically prohibit their members to take up arms. So they could be given civic or noncombatant assignments in times of war.

MR. SUAREZ. So the phrase "objections of conscience" could very well refer to religious objections.

MR. TINGSON. We think so, Madam President.

MR. SUAREZ. Section 9, Madam President, has something to do with family life and, of course, the controversial provision regarding the right of the unborn from the moment of conception. May I address some legal points regarding this matter, but I do not think it would be fair to the Honorable Villegas.

MR. TINGSON. Madam President, he is here, and if it is not too inconvenient for him, we will give him the floor being a member of the committee.

MR. SUAREZ. No, Madam President, we can conduct our dialogue at the back. I have no objection.

MR. TINGSON. It would be better if the Commissioner looks at him while he speaks. It would be more convincing.

MR. SUAREZ. Madam President, there is a disturbing word here that needs clarification, and it is "equally" which appears on line 1, page 3. The State is required to equally protect the life of the mother and the life of the unborn from the moment of conception. This is a collision of rights but according to the phrasing, these rights must be of equal weight. If it involves the life of the mother and the life of the child, how are we going to resolve that problem, Madam President?

MR. VILLEGAS. As I stated in my sponsorship speech, 99 percent of the cases indicated that taking care of the health of the mother is taking care of the child and vice versa. Because of the progress of medical science, the situations when a moral dilemma exists are very, very few. The intention behind the statement is precisely for the State to also make sure that it protects the life of the pregnant mother. She goes to all sorts of trouble as we have discussed in the provisions on health. Protecting the life of the mother, giving her all the necessary social services will protect the child. So it happens only in very, very few instances which we mentioned, like ectopic pregnancies when the fertilized ovum is implanted outside of the uterus. I repeat, medical science has made the situation very, very exceptional. And we said that even in those instances, which I consider to be less than one percent of the situation, there is a moral principle which we referred to as the principle of double effect in which if one has to save the life of the mother in an operation, it is morally and legally permissible to so operate even if the child will have to be indirectly sacrificed. There is no murder involved there because one does not intend the death of the child. One is correcting a medical aberration of the mother.

MR. SUAREZ. Thank you, Madam President. Suppose it is the other way around. Do we have to save the child as against the life of the mother?

MR. VILLEGAS. Yes, Madam President.

MR. SUAREZ. Although I do not want to sound dramatic, it could very well happen.

MR. VILLEGAS. Yes, it could.

MR. SUAREZ. In a situation like that, how would this equality provision be operational?

MR. VILLEGAS. It is the same principle of double effect. If you are not killing the mother directly, if the operation is to save the child and there is the indirect effect of the mother's life being sacrificed, then I think the principle of double effect also applies.

MR. SUAREZ. So we do not lay moral and legal liability or responsibility as well upon the doctor who will determine and make the judgment accordingly?

MR. VILLEGAS. Yes, Madam President.

MR. SUAREZ. That is clear, Madam President. In other words, notwithstanding this mandate appearing in our proposal that the State shall equally protect the life of the mother and the life of the unborn from the moment of conception, we would not lay the blame upon the doctor who is called upon to make the judgment?

MR. VILLEGAS. Yes, Madam President.

MR. SUAREZ. Thank you, Madam President. This matter of the protection of the unborn from the moment of conception may have a little problem with respect to the application of the laws. Our Vice-President has already called attention to the fact that we have laws against abortion, whether willful, deliberate or induced. Is the committee not satisfied with the provisions now existing in the Revised Penal Code that it goes farther and give protection even to the unborn from the moment of conception?

MR. VILLEGAS. Yes, Madam President. As Commissioner Padilla already said, it is important that we have a constitutional provision that is more basic than the existing laws. In countries like the United States, they get involved in some ridiculous internal contradictions in their laws when they give the child the right to damages received while yet unborn, to inheritance, to a blood transfusion over its mother's objection, to have a guardian appointed and other rights to citizenship; but they do not give him the right to life.

As has happened after that infamous 1972 U.S. Supreme Court decision, babies can be killed all the way up to 8 and 8 1/2 months. So precisely this basic provision is necessary because inferior laws are sometimes imperfect and completely distorted. We have to make sure that the basic law will prevent all of these internal contradictions found in American jurisprudence because Filipino lawyers very often cite American jurisprudence.

MR. SUAREZ. Madam President, there is another legal point, but I hope the Commissioner and I can thresh this out together for the benefit of the other Commissioners. In our Civil Code, whenever we speak of a child, we speak in the context of a born child so much so that we have what are known as legitimate, illegitimate, legitimated, spurious and adulterous children and children born out of rape incidents. These all speak in terms of a born child, and these born children necessarily enjoy legal rights pursuant to the constitutional provision that every person has the right to life, liberty, property and the pursuit of happiness.

MR. VILLEGAS. Yes, Madam President.

MR. SUAREZ. Going to these unborn children who will be given protection from the moment of conception, does the Commissioner have in mind giving them also proprietary rights, like the right to inheritance?

MR. VILLEGAS. No, Madam President. Precisely, the question of whether or not that unborn is a legal person who can acquire property is completely a secondary question. The only right that we want to protect from the moment of conception is the right to life, which is the beginning of all the other rights.

MR. SUAREZ. So, only the right to life.

MR. VILLEGAS. Yes, it is very clear, only the right to life.

MR. SUAREZ. That is the only right that is constitutionally protected by the State.

MR. VILLEGAS. That is right, Madam President.

MR. SUAREZ. And that right to life, unfortunately, collides with the right to life of the mother.

MR. VILLEGAS. In very, very few instances, Madam President.

MR. SUAREZ. In most instances, I suppose.

MR. VILLEGAS. In most instances they collide?

MR. SUAREZ. Yes, because it could very well mean that if there is a miscarriage or if an abortion is induced, it could jeopardize the life of the mother. So, in those situations, they collide because what the Commissioner is saying is the right to life of the unborn child.

MR. VILLEGAS. Yes, the right to life, Madam President.

MR. SUAREZ. In other words, to be born or to get out of the womb of the mother and become a child in the real sense of the word, legally, conceptually and everything?

MR. VILLEGAS. Yes, Madam President.

MR. SUAREZ. So what kind of protection does the Commissioner have in mind in order that we can give life to this unborn child from the moment of conception?

MR. VILLEGAS. "Protection" means any attempt on the life of the child from the moment of conception can be considered abortion and can be criminal.

MR. SUAREZ. So, principally and exclusively, if I may say so, what the Commissioner has in mind is only an act outlawing abortion.

MR. VILLEGAS. Exactly, Madam President.

MR. SUAREZ. So that is the real thrust and meaning of this particular provision.

MR. VILLEGAS. That is right.

MR. SUAREZ. Can we not just spell it out in our Constitution that abortion is outlawed, without stating the right to life of the unborn from the moment of conception, Madam President?

MR. VILLEGAS. No, because that would already be getting into the legal technicalities. That is already legislation. The moment we have this provision, all laws making abortion possible would be unconstitutional. That is the purpose of this provision, Madam President.

MR. SUAREZ. I thank the Commissioner. That is all, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Tadeo be recognized.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Ginang Pangulo, mga bumubuo ng kagalanggalang na komite, mayroon akong tanong tungkol sa nakasaad na "The Philippines is a republican State." Ako po ay labis na nabighani dahil nagkaroon ito ng "democratic."

Ang pagkakaalam ko sa republican government ay representative government – government of the people, by the people and for the people. Nakikita ko po rito na kung "republican" lang, hindi ito pure democracy where people directly governs. Nagandahan ako rito sapagkat ang ibig sabihin ng democratic government ay isang pamumuno na mayroong direct governance ang mamamayan tulad ng ginawa natin na bago tayo umupo at gumawa ng isang Saligang Batas, sumangguni muna tayo sa mga tao sa pamamagitan ng public at committee hearings. Ito ba ang ibig sabihin ng "democratic"?

MR. NOLLEDO. Madam President, I will speak in English and, perhaps, in some instances, in Filipino.

The Commissioner will notice that I said it was a justified redundancy because some manifestations of a democratic state are already found in republicanism. But in view of the many provisions where we recognize people's power in the form of people's organizations,

referendum, initiative, recall, where the people participate even in legislation and in the removal of public officials, I think the word "democratic" must be included and must be aligned with republicanism.

Marami ng mga pangyayari na inilagay natin sa Saligang Batas ang karapatan ng mga taong bayan na hindi lamang sila ay kokonsultahin kung hindi sila mismo ang magbibigay ng tinatawag nating "judgment" o kung ano ang inaakala nilang nararapat sa ilalim ng mga pangyayari.

MR. TADEO. Ang ibig ho bang sabihin nito ay ang isang miyembro ng Kongreso, alkalde o gobernador matapos mahalal, batay sa karanasan, ay nakakalimutan na ang mamamayan o isang pamumuno na patuloy na sumasangguni sa kanyang mamamayan?

MR. NOLLEDO. Kasama na po iyon.

MR. TADEO. Samakatuwid, ang ibig sabihin ay ang pinunong hinalal ay magiging daluyan lamang ng ideals and aspirations ng taong bayan at iiisang-tabi niya ang kanyang pansariling kapakanan sa kapakanan ng nakararami?

MR. NOLLEDO. Tumpak po ang sinabi ng Commissioner.

MR. TADEO. Ang ibig po bang sabihin nito ay bago ibinaba ni Minister Mitra ang presyo ng palay sa halagang P3 ang kilo, sumangguni muna siya sa mga magbubukid na siyang maaapektuhan nito?

MR. NOLLEDO. I have my own reservations regarding that. If we look at the existing laws, I think Minister Mitra acted within his powers. But I agree with the Commissioner that it would be much better if the minister consulted the people affected based on the spirit behind the Constitution that we are preparing. I think it would have been better if he consulted the farmers who were affected by the decision.

MR. TADEO. Nakita ko na ang salitang "democratic" ay bilang patotoo sa ginawa natin sa Article on Social Justice, Section 5, na sa pagpapatupad ng reporma sa lupa, kasama ang magbubukid sa planning, organization and management of the program. Ito rin ba ang ibig sabihin ng "democratic"?

MR. NOLLEDO. Kasama rin po iyon.

MR. TADEO. Ang ibig din po bang sabihin ng "democratic" ay katulad ng nasasaad sa Section 15 sa ilalim ng "Role and Rights of People's Organizations"?

> The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

MR. NOLLEDO. The declaration that we are a democratic state is implemented by that provision in a constitutional way, Madam President.

MR. TADEO. Patutuo rin ito ng Section 16.

> The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged.

MR. NOLLEDO. Tama po si Commissioner Tadeo.

MR. TADEO. Ang ibig po bang sabihin ng "democratic" ay ang people's power ay hindi natapos sa lansangan, kung hindi ito ay bahagi ng pagtatayo ng istraktura ng ano mang pamahalaan?

MR. NOLLEDO. Opo.

MR. TADEO. Salamat po. Ginang Pangulo, gusto ko pong tanungin si Commissioner Villegas tungkol sa Section 9, lines 1 to 3:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

Batay po sa isang talakayang ginawa sa St. Joseph, "Forum on Filipino Children," na napalagay sa *Malaya*, November 24, 1985 issue, sinabi ni Dr. Edelina de la Paz, executive director of the Council for Primary Health Care, na walo sa sampung batang Pilipino ang namamatay taun-taon dahil sa gastroenteritis, pneumonia, malnutrition at iba pang nakahahawang sakit. Among zero to four-year old children, 1.8 million are undernourished, while 4.9 million children representing 50 percent of the preschool children population are suffering from nutrition anemia.

Sinasabi pa rin sa istatistika na dumami ang mentally retarded sa Pilipinas bunga ng kahirapan, na ang dating bilang bago magsimula ang martial law ay 12,000 lamang. Pagkaraan ng labing-apat na taon, umabot ito sa 1.47 million at dumadami pa ito ng tatlumpung libo bawat taon. Sang-ayon pa rin sa ulat ng Ministry of Health, ang kaso ng pagkabaliw ay dumadami ng 100, 200 o 300 porsiyento bunga ng malnutrition.

Batay sa ulat ng Ministry of Health, 90 porsiyento ng utak ng isang bata ay nadedevelop simula sa pagsisiping pa lamang ng mag-asawa hanggang sa ang bata ay umabot sa edad na limang taon, kaya kailangan ng isang ina ang kumpletong pagkain. Subalit sinabi ni Dr. Edelina de la Paz ang mga sumusunod: "Foreign control of the economy, in the final analysis, is the true killer of our children."

Ginang Pangulo, kung ilagay ba natin sa Saligang Batas ang tungkol sa Section 9, lines 1 to 3, page 3, at ang ating ekonomiya ay hawak pa rin ng mga dayuhan, ano po kaya ang mangyayari? Inuulit ko sinasabi ni Dr. Edelina de la Paz na ang foreign control of the economy ang dahilan. Ito ang pumapatay sa mga batang

Pilipino. Ano po kaya ang nararamdaman ni Commissioner Villegas na ang pumapatay pala sa mga batang Pilipino ay ang foreign control of the economy?

MR. VILLEGAS. Madam President, Dr. de la Paz is entitled to her opinion. I would like to tell the Commissioner that nationalist economist Alejandro Lichauco has also said very categorically that the problem of mass poverty has absolutely nothing to do with the number of babies being born in this country. There are causes which he also attributes to foreign control or imperialism, but I think the question is completely irrelevant as far as Section 9 is concerned.

MR. TADEO. Ginang Pangulo, sinasabi sa panukala na mula sa pagkabuo pa lamang, from the moment of conception, dapat na nating pangalagaan ang bata. Batay sa pananaliksik ng siyensa sa kalusugan, mula sa pagkabuo ng bata hanggang limang taon 90 porsiyento ng utak nito ay nadedevelop kaya kailangan itong pangalagaan. Ang ibig sabihin, ang ina ay dapat na mayroong kumpletong sustansiya sa panahon ng kanyang pagdadalangtao; dapat mayroon siyang maayos na kabuhayan para mabigyan niya ng sustansiya ang bata from the moment of conception. Hindi po kaya katotohanan lamang ang sinabi ni Dr. Edelina de la Paz?

MR. VILLEGAS. As I said, she is entitled to her opinion and this body is not the forum to dispute her contention.

MR. RAMA. Madam President, I ask that Commissioner Tan be recognized.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. Madam President, when we say "existing treaties" on Section 3, do we refer to those treaties existing at the time of the ratification of the 1986 Constitution?

MR. AZCUNA. Yes, Madam President, it refers to treaties existing at the time of the effectivity of the new Constitution.

SR. TAN. Therefore, does this mean that if we pursue an independent course in foreign relations and strive to promote a zone of peace, freedom and neutrality this will prevent us from participating in joint military air and naval exercises with Asian countries as part of our mutual security?

MR. AZCUNA. I believe this will not, Madam President. The concept of "a zone of peace, freedom and neutrality" does not prevent the participants in that zone from being even militarily prepared to protect that neutrality. A modern concept of neutrality as cited by General de Castro in a paper he has given us includes the neutral's power to defend itself.

MS. AQUINO. Madam President, may I just qualify the answer of Commissioner Azcuna. Neutrality now has been commonly accepted to cover the necessity for armed neutrality. A country that advocates a position of neutrality should be in a position to defend a position of neutrality such as in this concept. It is in this context that Commissioner Azcuna's answer is correct. However, if this will be a military exercise that will be concomitant with, for example, a military pact of NATO or any other military alliance that pertains to a superpower, then it is not allowed because that would violate the essence of neutrality in that point.

SR. TAN. I thank the Commissioner. With regard to women, Section 11, page 3, states:

> The State recognizes the role and participation of women in nation-building and shall ensure the right of women to equal protection with men in all spheres . . .

Madam President, if the Constitution is ratified, would this provision automatically nullify all existing laws which deny women equality with men?

MS. AQUINO. Yes. The intent of this section as differentiated from the social justice provision on women is to provide for a self-implementing constitutional mandate that will repeal all of the discriminatory and anti-feminist clauses in the new Civil Code and in the Revised Penal Code. We have a list of those; we have made a survey on those.

SR. TAN. That is wonderful, Madam President. Section 12 states:

> The State affirms the primacy of labor as a social and economic force and shall foster their welfare and protect their rights, subject to the corresponding claim of capital to reasonable growth and returns.

The term in question is "subject to" because it would mean, of course, subservient or below capital. Was that the intention of the committee?

MS. AQUINO. Madam President, at this point we would like to inform the Commission that at the proper time the committee will advance an amendment which will delete the phrase "subject to the corresponding claim of capital to reasonable growth and returns." This is best appreciated in the context of the approved provision in the Article on Social Justice which adopted this qualification. The committee's intention is to make a clear declarative pronouncement of the primacy of the rights of labor in the Article on the Declaration of Principles. This is actually a takeoff from Commissioner Bacani's resolution.

SR. TAN. So we have an amendment which, I think, would take care of it. Madam President, I just have an observation. It has been said several times that we are not in a position to make any decision about bases, nuclear arms or neutrality because we are not equipped with sufficient knowledge. I wonder whether the committee has any opinion about this.

MR. AZCUNA. Madam President, our opinion is that we have sufficient knowledge to make a decision since this revolves on sovereignty and the effects of foreign military bases on national sovereignty, as well as the fact that we have had the opportunity to consult with experts, read materials and go into the history or the whole background of the Philippine experience on bases and nuclear weapons. There are available materials and we have culled into them. We believe, Madam President, that it is not correct to say that we are not equipped to deal with this. We, in fact, have shown in our discussion that we are all very well aware and well informed about this matter.

MS. AQUINO. Also, Madam President, it is the committee's position that the best springboard for knowledge is not really so much the technical expertise on the matter than it is the sense of history. The historical situation has taught and provided the imperative for this kind of a provision. The historical situation now is different from the historical situation 20 years ago.

In Asia, there is a common drift of adopting a position that we refuse to be taken for granted anymore. We are now intolerant of the imperialist pretensions of the superpowers. The military bases agreement which is the lesson of history is not a magnanimous document as it is being touted to be. In fact, it is a straitjacket. So the best teacher we have which guides us so far is our sense of history.

SR. TAN. My dilemma is that when I keep on hearing that we are not equipped, then we are also not equipped to suggest deletion, is it not?

MR. AZCUNA. As I said, I feel that both sides of the debate have shown remarkable understanding and wealth of information and it only goes to show that we are equipped to deal with this problem one way or the other.

SR. TAN. Yes. My point is, if there are still some of us here who are not equipped, then they are also not equipped to propose deletion.

MR. GARCIA. If I may share my own thoughts in this matter, I think it is a very important question. My own question to those who are saying that we are not equipped, not capable and that we are only appointed would be this: Why have we lost the political will and the constitutional confidence to draft a truly sovereign charter, especially when we have to face the issue which touches on the violation of our territorial integrity and the colonial vestige of extraterritoriality? Secondly, I say this to those who have proposed also that we should not touch this precisely because we are not politicians. We can act independently and be guided by considerations beyond partisan politics and beyond the lifetime of just one administration. I also want to say that now is the time and this body is the forum to decide on the bases issue for principles must guide leaders, not leaders who can rewrite principles everytime a new administration comes into power; not that we do not trust our leaders, but we must support principles that can be embodied by our leaders. That is the reason why we want to have in the Article on the Declaration of Principles a statement. We cannot shirk from this responsibility of saying something on the bases.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. As mentioned by Commissioner Azcuna, there has been a very scholarly presentation of both sides. It is true that knowledge is available to us as much as it would be available to an elective legislative assembly. Of course, some of us on the other side of the fence are saying that this body should not be the final arbiter for such a very momentous decision as on the military bases which have been in our country not only yesterday but for many past administrations. The history of these military bases has been officially accepted by past Presidents of our country, and the legislature has had intimate dealings with the Ministry of Foreign Affairs and with experts on jurisprudence. Rationales and papers have been written and produced in favor of the retention of the military bases and issued officially by our Foreign Affairs Ministry.

As to what the other side is saying, it would be best for our country if such a momentous decision would not be given finality here since, in a sense, we are only appointed. We do not have the final seal of approval to make a final decision on something like this. It might be best to just leave the matter into the hands of the chief executive assisted by the Ministry of Foreign Affairs, the ambassadors in the United States and elsewhere and the experts who would be more available as compared to the limited public hearings that we had. The public hearings were so limited indeed. I remember that we did not just discuss the bases during our hearing. They were really perfunctory discussions.

When I was in Albay, Bacolod, San Carlos and even here in Metro Manila, I remember that some of us were saying that it might be better to leave the matter to our chief executive assisted by the Ministry of Foreign Affairs.

MR. GARCIA. Madam President, I would simply say this: Why have we become all of a sudden so different in the writing of this sovereign Charter? Tomorrow may be too late. There has been so much study on nuclear weapons and nuclear arms. In fact, I remember in the public hearings we had in the old Congress building on July 4, this year, Senator Tañada said very clearly that one can make a mistake on the bicameral or unicameral issue, the parliamentary or the presidential issue, but one cannot make a mistake on this issue of the bases and nuclear weapons. There is so much data. As of 1984, the United States has 11,857 deliverable strategic warheads excluding sea-launch cruise missiles and euromissiles. The USSR had 7,865 strategic warheads, a total of nearly 20,000 strategic warheads for both superpowers. When we add tactical nuclear warheads, the figures would be 37,657 nuclear weapons for the U.S. and 17,656 for the USSR or a total of 55,000 strategic and tactical nuclear weapons. This is merely 16 billion tons of TNT or an average of three tons for every man, woman and child living on earth today – far more than what is needed to annihilate all of humanity. We should know that just one trident submarine alone carries four times the fire power expended in the entire Second World War.

The point I am trying to make is this: We are sure that there is so much evidence in our bases wherein nuclear weapons are deposited. We have data. We can go through the data very carefully if we bother or care to. The point is, it is such of an urgent nature that we have to decide.

In other words, I cannot imagine a Constitutional Commission saying that we are drafting a very important law for the land and not addressing such a vital issue of the survival, security and safety of our people. Otherwise, why write a charter at all? For me, this is a very elementary question. If we have a child and the future of the child is at stake, are we not going to answer the most vital issues – the life of the child and the country of the child? So for me, that is very important. I mean, if we have to stop this Constitutional Commission right now and have an on-the-spot inspection of the bases, if we can be allowed, to see what is going on, we will know the kind of weapons being used. Right now, there is a USSR carrier that is docked. I am sure that that carrier which is nuclear capable, with 12,000 men in it, has nuclear weapons. Otherwise, this is what General Laroque says: "If it is nuclear capable, it normally has those weapons." And that is a threat. Every year there has been over a hundred accidents of nuclear weapons. Every year there is one. The point is we do not want to be part of these nuclear madness, this annihilation; neither do we want to be involved in a war not of our own making nor be destroyed or annihilated because of a nuclear accident. I think we must take a stand in this body.

MR. TINGSON. Madam President.

THE PRESIDENT. Is there any other Member outside of the committee who would like to speak?

MR. DAVIDE. Madam President.

THE PRESIDENT. I understand the Floor Leader has a long list.

MR. RAMA. Yes, Madam President.

MR. DAVIDE. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I was about to raise this yesterday, but I wanted to hold my peace. I would raise it now.

I notice that the committee report indicates that Commissioner Tingson, as vice-chairman, signed without any reservation whatsoever. However, he spoke against the report yesterday. Today he is speaking against the report. Yet, in his sponsorship speech, he did not make any reservation regarding Sections 3 and 4. My parliamentary inquiry is: Is it not that under the Rules, a person who signs a committee report without reservation, taking into account the suppletory effect of the Rules of the Batasang Pambansa, cannot anymore speak against the report?

THE PRESIDENT. There is a parliamentary inquiry; we will study the matter.

MR. AZCUNA. For the information of Commissioner Davide, the honorable vice-chairman voted against the sections he is speaking against and if that is not reflected in the report, this is just really a typographical error. I notice that Commissioner Crispino de Castro has a reservation but it is just interrelated in handwritten note. This is just a typographical error, Madam President. It is of record in the committee, and I can attest to that, that Commissioner Gregorio Tingson voted againt these provisions in the committee report.

MR. TINGSON. Madam President, may I also say one word inasmuch as I was alluded to.

We all hear of very dark possibilities of destruction among our people and the world itself in case of nuclear war, and we all say that this is a very momentous problem that must be debated upon. I would suggest that we forget some legal technicalities, if only for the interest of everyone of us to fully participate, including the acting chairman of this committee. I would not have said anything a while ago, but due to the fact that nobody stood to say something for the other side, hence, I stood and said something for the other side.

THE PRESIDENT. In fact, the Chair is not following all the Rules of the body. It has been very liberal in applying said Rules. But for purposes of not prolonging our discussions too much, I request that what has already been said need not be repeated. I think we are all conversant with the views that have been given during the three-day debate that we have had.

So may we have the next interpellator, please.

MR. RAMA. Madam President, I ask that Commissioner Bennagen be recognized.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Madam President.

I would like to refer to Section 3, specifically lines 19 and 20: It states: "The State has the inherent right to self-determination, national independence and sovereignty." I find this a little odd, sandwiched as it were in a statement on a "zone of peace, freedom and neutrality" and a statement on "treaties, international or executive agreements" in relation to foreign military bases.

May I know the contemplation of the committee in relation to this particular phrase: "self-determination, national independence and sovereignty."

MR. AZCUNA. Yes, this whole section has to do with the assertion of sovereign independence by the State especially in its foreign relations. The lead sentence of Section 3 states that the State shall pursue an independent course in sovereign relations and then it goes to specific case, and that is, to strive to promote a zone of peace, freedom and neutrality in this part of the world together with other states.

The next paragraph under Section 3 again states the inherent right of the State to self-determination, national independence and sovereignty. The second sentence again goes to a specific case which involves that principle; that is, foreign military bases, troops and facilities. And because of that first sentence, it seeks under the specific case to forbid such foreign military bases as a violation of that principle in the first sentence.

MR. BENNAGEN. But does not the phrase "self-determination, independence and sovereignty" include other categories apart from foreign military bases?

MR. AZCUNA. It does. Yes, this is just a specific case; it does not exhaust the range of possibilities under the first sentence or under the concept of sovereignty.

MR. BENNAGEN. As a state principle, should it not be somewhere else to include all these other categories?

MR. AZCUNA. Not necessarily. The committee feels at this point that this particular category looms quite large in this field that it bears to be mentioned, specifically, together with the principle.

MR. BENNAGEN. So it is for greater emphasis that it is placed here?

MR. AZCUNA. Yes, that is right.

MR. BENNAGEN. But it does not preclude other categories?

MR. AZCUNA. It does not preclude other categories.

MR. BENNAGEN. Thank you. Let me go to Section 5.

> The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the social, economic and political condition.

The first reference is to "dignity of the human person" but it is followed by a list of human rights and a list of social, economic and political conditions. Is the reference still to the person or to the social concept of that human person?

MR. AZCUNA. What section?

MR. BENNAGEN. Section 5, lines 7, 8 and 9 on page 2.

MR. NOLLEDO. Yes. The social concept of the human person is included because when we talk of the human personality, we must necessarily live by bread. However, man does not live by bread alone; we have to respect his human dignity and human rights. So when we talk of the phrase "social, economic and political condition," we talk of his position as a human being, the physical being. When we talk of "political condition," we talk of his participation as a member of the community where he can participate as a voter or as a candidate, and those things taken together are affected by the respect for human dignity and honor.

MR. BENNAGEN. Is it the idea, therefore, that for human rights to be valued and protected, there should be a conscious effort on the part of the State to enhance social, economic and political conditions?

MR. NOLLEDO. I would agree with the Commissioner because the respect for human rights may actually exist independently of the social, economic and political condition. But as we have stated here, when we talk of human rights, we talk of the whole gamut of rights pertinent to the existence of the human person. So we do not talk only of civil and political rights, as indicated by Commissioner Padilla here, but we talk also of social and economic rights. That was the reason why when we established the Commission on Human Rights, we basically referred to violations of civil and political rights, but we do not necessarily do away with the social and economic rights that belong to the person.

MR. BENNAGEN. Thank you.

Section 7 of page 2, lines 15 to 20 states:

> The prime concern of the State is the promotion and establishment of a socio-political and economic system that will ensure the independence of the nation and aims to secure for the people the benefits of full employment, a high standard of living, equality in economic opportunities, security in old age, and other basic human rights.

May I know the contemplation of the committee on the nature or characteristics of this "socio-political and economic system," particularly as it promises to "ensure the independence" etc.?

MR. AZCUNA. The statement of principle contained in Section 7 refers to a "socio-political and economic system" that ensures national independence and aims to secure for the people economic benefits of better quality of life as full employment, a high standard of living, equality in economic opportunities, security in old age and other basic human rights.

MR. BENNAGEN. Would this include full industrialization?

MR. AZCUNA. I suppose that would be included in the benefits of full employment, and then also, of course, agrarian reform, if it will have to take into account the explicitation of these principles in other parts of the Constitution.

MR. BENNAGEN. Reference is made to "high standard of living," and I recall that in the Article on National Economy and Patrimony, we opted for quality of life instead of standard of living. In due time, would the Commissioner be open to some amendments?

MR. AZCUNA. Yes.

MR. BENNAGEN. Then, reference is made to "security in old age." Why is there a particular effort to single out security in old age in the Declaration of Principles and State Policies?

MR. AZCUNA. This was felt to be a concern among the Commissioners who filed a resolution to this effect, and the committee agreed that we must protect not only the young, but also the elders and the senior citizens because they are at a disadvantage.

MR. BENNAGEN. I ask that because the Commissioner seems to be guided by some kind of principle that the more we enumerate, the more we limit the options, and I am a little bothered why old age is singled out.

MS. ROSARIO BRAID. We have provided security for other sectors in the other provisions. As we would note, we have done it for the youth, the women, labor and other sectors. So, those belonging to this sector have not been ignored. We thought we would include it in this particular section.

MR. BENNAGEN. On page 3, lines 10 to 12, part of Section 10 states:

> For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

We had this debate in previous articles on the distinction between "nationalism" and "patriotism." In the contemplation of the committee, would "nationalism" include, among other things, ideas of service to society, the distinctions existing among classes and ethnic groups? Does it allow for a clear understanding that even as we strive to build ourselves into a nation, we are also aware of the need to recognize that there are existing contradictions in Philippine society, that we do not wish to develop a kind of nationalism that pretends to be homogeneous and at the same time chauvinistic in relation to other nations?

MR. AZCUNA. That is right.

MR. BENNAGEN. I ask that because we did emphasize in one section on the Article on Human Rights that to counteract the tendency towards some kind of national chauvinism, there should be some effort towards relating ourselves to other nations. Then on Section 12, I understand that Commissioner Tan has a related question, but I still feel that there is indeed a need to amend this to harmonize the rather contradictory tendency of the use of the phrase "primacy of labor" and the subsequent use of the words "subject to." Somehow, they do not belong together.

The last line on page 3 and the first two lines on page 4 state:

> The State shall promote rural development and agrarian reform as priorities, with cooperativism as its organizing principle.

MS. ROSARIO BRAID. Not really, but we thought we would emphasize cooperativism because we felt that we should have a mechanism that will support these very important areas of rural development and agrarian reform. May I just add that nowhere in the other articles have we mentioned rural development, so we thought we would do it in this Article on the Declaration of Principles. We will note too in the *Evening Post* today that one of the gaps pointed out in the researched report on the present government is its lack of policy on rural development. So this is a very appropriate provision that can respond to some criticisms, such as lack of strategy in rural development.

MR. BENNAGEN. We normally link rural development with urban development but there is no statement on urban development.

MS. ROSARIO BRAID. It was mentioned this morning that there are areas we have not dealt with. One explanation for this is that we have to respond to resolutions that were sent to our committee. That is really in the case of urban development. But the Articles on the Executive, Legislative and Accountability of Public Officers deal with procedures and time-bound practices rather than principles. So what we have in this Article on the Declaration of Principles are principles that will stand the test of time. For this reason, we felt that only those concepts and principles that we can say will remain beyond and for a reasonable period of time should be contained in this article. But in terms of urban development, I think if the body would be willing to submit amendments, we will welcome it at the appropriate time.

MR. BENNAGEN. Would rural development include agrarian reform or would there also be industrial development as part of rural development?

MS. ROSARIO BRAID. Yes. Industrialization will be a part of rural development.

MR. BENNAGEN. Thank you.

Still on the same page, Section 18 states:

> The State recognizes the human right to a healthy environment and the singular demand of nature to follow its own rhythm and harmony.

I like the last clause "the singular demand of nature to follow its own rhythm and harmony" because it challenges the literary imagination. But, precisely, what is the meaning of this in relation to the next sentence which states:

> The State shall therefore maintain ecological balance even as it harnesses our natural resources for the common good and the sustenance of future generations.

It has been said that in ecology the less we tamper with nature, the more it follows its rhythm and harmony.

MR. GARCIA. In a sense, this is an effort to respect the rhyme and rhythm of nature, the purity of the rivers, the ecological life of our lakes against pollution, the protection of the forest and our preserves. It is necessary to respect nature just as we respect human life and the needs for the development of a country.

MR. BENNAGEN. When we say we respect nature, would it include also man or human beings as part of this nature with its own rhythm and harmony?

MR. GARCIA. Yes. In fact, it is for man that we protect the environment.

MR. BENNAGEN. No, it is not just for man because this implies a tendency to exclude man from our concept of nature. I am asking whether or not in this concept man would be viewed as part of nature.

MR. GARCIA. Precisely, the stress here is the right of man to a healthy environment. The only reason why we want to protect and harness nature is for man's good and benefit.

MR. BENNAGEN. Yes. As formulated, there is a tendency to separate man from that ecosystem of which he is a part. What I am saying is, we restore in this article a principle that was lost in the Article on Human Rights, wherein we argued that there is a need for us to promote ecological consciousness.

MR. GARCIA. Yes.

MR. BENNAGEN. In due time, would the Commissioner accept some amendments to include ecological consciousness as a necessary perspective for this Section 18?

MR. GARCIA. Yes.

MR. BENNAGEN. Thank you.

On the same page, Section 19, lines 26 to 28, states:

> Towards this end, it shall promote the development of an indigenous, socially responsive and nationalist oriented scientific and technological capability.

Would this include support for basic science research for both the natural and social sciences? I ask this because one gets the feeling that the principal focus is on applied science and technology. Would it also include basic science research in the natural sciences and social sciences?

MS. ROSARIO BRAID. Yes. We remember that in our discussion on the Article on Science and Technology we did note the importance of linking science and technology to the political, social environment and the need to come up with a more multidisciplinary approach to science and technology; which means that we cannot divorce it from the social sciences but that science and technology should include both social, natural and technological sciences.

MR. BENNAGEN. No, I am referring also to the relationship between basic and applied science research.

MS. ROSARIO BRAID. These are included in the concept.

MR. BENNAGEN. Basic and applied?

MS. ROSARIO BRAID. Yes.

MR. BENNAGEN. Yes, because developing countries have a tendency to put their resources into the applied sciences to the neglect of basic natural and social science research. I feel it is important to pay attention to basic sciences.

MS. ROSARIO BRAID. Yes, we fully agree.

MR. BENNAGEN. On page 5, Section 21, lines 3 to 8, states:

> The State shall protect the right of the people to communicate and shall promote access to information to enhance social and political participation. The media and other forms of communication have a social responsibility in assisting the people to enjoy their rights and freedom.

In the other provisions we usually make a listing of aspects of society to include social, economic and political. But in this section, particularly in relation to access to information, reference is made only to social and political. Is it not the case that economic information is of extreme importance in enhancing greater participation among the people? Is it the contemplation of this article that access would be in relation to the whole range of information?

MS. ROSARIO BRAID. Yes, we quite agree that "economic" is subsumed under "political." We have to underscore "political" because we want to emphasize the need to awaken the people so that they will be able to identify the needs and requirements, so they will be able to participate in their own development. However, this does not include economic information.

MR. BENNAGEN. When the time comes for amendments, would the Commissioner accept an amendment to include economic information?

MS. ROSARIO BRAID. Yes.

MR. BENNAGEN. Thank you, Madam President.

MR. GUINGONA. I rise on a question of privilege, Madam President.

THE PRESIDENT. Commissioner Guingona may proceed.

MR. GUINGONA. I tried to speak earlier because I felt alluded to by the implied accusation of the acting chairman of the committee when he said that he had to speak because the Commissioners who shared his views were silent. The reason for our silence, Madam President, is because of the ruling of the Chair to which we have submitted that Commissioners who want to interpellate the committee members are not subject to interpellations.

Thank you, Madam President.

THE PRESIDENT. Thank you.

MR. RAMA. Madam President, I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Madam President.

I am inviting attention to Section 6 which was touched by Commissioner Suarez, particularly the phrase "with due regard to objections of conscience."

This has reference to the provision in Article II, Section 2 of the 1935 and 1973 Constitutions which reads:

> The defense of the State is a prime duty of government, and in the fulfillment of this duty, all citizens may be required by law to render personal military or civil service.

In the committee report, the exception or qualification "with due regard to objections of conscience" was inserted. Does that mean that a citizen or a student may not be required to render personal military or civil service on the excuse that his faith or his religion prohibits such a service?

MR. AZCUNA. No, Madam President. This provision was taken from the original resolution of Commissioner Davide which seeks to provide for substitute service on the part of conscientious objectors. First, this provision refers to situations where there is a sincere, real, honest objection of conscience and not a pretended or fictitious one. Of course, the ability to distinguish one from the other, that we can leave to Congress or to the courts or to the other authorities.

Second, as we mentioned earlier, the intent is not to exempt from service a conscientious objector. The phrase "due regard" means that as much as possible, such a person who is a genuine conscientious objector be not assigned to combatant duties. There are other duties both in the military service and the civil service which will not entail combat work.

MR. PADILLA. But there is no such distinction that they will not be assigned to combat work. Why? This is because his faith tells him not to believe in killing or being killed in war even if it be in defense of his country or it may be that his religion does not allow military training because he does not believe in this prime duty of the citizen to defend his country.

This may be a dangerous phrase. Commonwealth Act No. 1, known as the National Defense Act, in some instances, requires military training. This was upon suggestion of General Douglas MacArthur when he was the military adviser of President Quezon. In fact, in all the schools, we have the ROTC which may not be sufficient. But there are some steps towards military training, not for offense but for defense.

The constitutionality of Commonwealth Act, No. 1 was once challenged, but the Supreme Court has upheld its validity.

I recall the case of *Gerona vs. Secretary of Education*, 106 Philippines 2, where some students who were Jehova's witnesses refused to salute the flag on the ground that their faith does not permit them to do so. That was the constitutional issue. The freedom of religious belief or the freedom of a person as a citizen cannot prevail over the police power of the State that would require the act of saluting to the flag as a prerequisite to education.

We all know that the Supreme Court has upheld the validity of that school regulation requiring all students, especially in the public schools, to salute to the flag.

May I be allowed to read a portion of that decision:

> In requiring the school pupils to participate in the flag salute, the State, through the Secretary of Education, is not imposing a religion or religious belief or a religious test on said students. It is merely enforcing a nondiscriminatory school regulation applicable to all alike, whether Christians, Muslims, Protestants or Jehovah's witnesses.
>
> The State is merely carrying out the duty imposed by the Constitution which charges supervision over a regulation to all educational institutions, . . .

And the court concluded:

> The children of Jehovah's witnesses cannot be exempted from participation in the flag ceremony. They have no valid right to such exemption. Moreover, exemption to the requirement will disrupt school discipline and demoralize the rest of the school population which by far constitute the great majority. The freedom of religious belief guaranteed by the Constitution does not and cannot mean exemption from noncompliance with such reasonable and nondiscriminatory law, rule and regulation by the proper authority.

In other words, the police power of the State prevails over the individual conscience of religious objection. I think it is a correct rule, otherwise, we may have some of our students or our citizens claiming privileges that are imposed as duties on all citizens for the defense of the country.

So, will the committee consider the elimination of the phrase "with due regard to objections of conscience" which was not in the 1935 and 1973 Constitutions?

MR. NOLLEDO. Will the Commissioner permit me to make a comment on that? As stated by Commissioner Azcuna, if it is possible to reconcile the conflict of conscience and the police power of the State, then that possibility should be explored and made real. For example, if one refuses to join the army because he is prohibited by his religion to kill, then he can be assigned to a noncombatant function. However, if the conflict is irreconcilable and when he just merely says that his conscience does not permit him to join the army because he does not like to join it, then the police power of the State may still prevail in that situation. So, I think it is appropriate to put the phrase "with due regard to objections of conscience" whenever the conflict can be reconciled. But when the conflict is irreconcilable, I will agree with the Commissioner that the police power of the State shall prevail.

MR. PADILLA. It cannot be reconcilable if we call it not an exemption but, in effect, it will be an exemption. In other words, granting a few some rights or privileges which are denied to the others just because they claimed that this is part of their religious belief will be very dangerous. There may be a new religious sect that will have one of its cardinal principles of faith the refusal to perform the duties of citizenship by not following what the Constitution says as "to render personal military or civil service." When we try to distinguish about combatant duties just because we say that only the Lord can kill or can give life and therefore can withdraw life and because the commandment says, "Thou shalt not kill," therefore, we can say "I do not want to learn how to bear a firearm; I do not want to shoot." How can we win a war if the soldiers do not know how to shoot? A war is for defense, not for friends. I hope the committee will consider this. This only means that they will not be assigned to combatant duties, but the committee report does not say so. It only says "with due regard to objections of conscience."

MR. NOLLEDO. That is the reason why we are explaining. We cannot put all the details there. We must know that there is a colliding freedom of religion; we have to consider other freedoms. We do know that there are several freedoms guaranteed by the Bill of Rights. When freedoms collide, then we have to reconcile.

MR. PADILLA. It is not a question of collision of freedoms. What is that collision of freedoms? The rights contained in the Bill of Rights do not collide with each other.

MR. NOLLEDO. Let us take the case of the Quakers. The Quakers are pacifists; they do not like to bear arms and kill people; then they can be assigned to the medical corp or to noncombatant functions of the army. That is a very good situation where freedom of religion is given importance, otherwise we will be diminishing the importance of certain freedoms guaranteed by the Bill of Rights. We cannot ignore those freedoms.

MR. PADILLA. If they are better qualified than doctors and nurses, well and good, because I do not also want everyone to be combatants in the field. There may be some who claim to be generals or majors, but they are only in the headquarters. They have never been in the frontline. There may be undue discrimination, especially if we base it on his conscience or his religion or his faith. The duties of citizenship must apply equally to all. I do not believe that religious freedom should prevail over the fundamental provision on the Declaration of Principles under Article II, Section 2 of the last two Constitutions. Why should we insert that phrase and make this provision more controversial, more doubtful and less effective? I hope this point may be considered.

Madam President, in the discussions of Sections 3 and 4, I have been hearing about the U.S. military bases, nuclear-weapons, nuclear-free country, etc. and that World War II in the Pacific was the war between Japan and the U.S. and not our own war. I agree that that was not our own war because we did not want to engage in war, much less against Japan, a more powerful nation, both economically and militarily. But we might have forgotten the misleading and deceptive slogan of the then highly militarized Japan, entitled "Greater Asia Coprosperity Sphere." I have not heard of any lengthy discussions on that slogan of the militarized Japan.

The historical fact is that the military, naval and aerial forces of Japan bombed Pearl Harbor not to wage war against the U.S. or to invade and occupy the continent of the United States. It was to cripple the naval and military forces of the United States so that this slogan of coprosperity sphere of Japan could proceed with less interference or intervention from the United States. And so, Japan, after starting its invasion of Manchuria, went downward Asia and it then bombed Camp John Hay and also Clark Field. Thereafter, the Japanese landed on Philippine soil and entered the City of Manila on January 2, 1942. But Japan in this coprosperity sphere wanted to invade and dominate all of Asia. History will show that the military forces of Japan under those extreme military rulers invaded not only the neighboring cities like Hongkong, but also French Indo-China, now Vietnam, British Malaysia, Dutch Indonesia, the Philippines, Singapore, Burma, New Guinea and Thailand. They went farther down to New Guinea even with the intention of invading Australia. That was the military plan of the highly militarized Japan. We have a Clark Field but I understand that many of these countries that were invaded and occupied by Japan during World War II in the Pacific did not have any U.S. military base.

MR. NOLLEDO. May I interject? Technically, the war was really between the United States and Japan because at that time the Philippines was under the control of the U.S. government and we were considered American nationals. Everyone knows that.

MR. PADILLA. I did not say American Philippines but I said "including French Indo-China, British Malaysia and Dutch Indonesia."

MR. NOLLEDO. American Philippines.

MR. PADILLA. All right, the Commissioner wants to call it American Philippines. The fact is that the United States had joined alliance with what we call the "free world." In the battleground of Europe, Hitler, in Union with Mussolini, invaded Poland and the other neighboring countries of Europe including France, and he even wanted to invade England and also attempted to invade Russia. So the United States, allied with the free forces against Hitler and Mussolini in Europe, had to extend also her military might against expansionist Japan not only against the Philippines but all over Asia. That is one fact that we verily do not realize.

MR. NOLLEDO. Would the Commissioner agree with me that at that time there was an impression created by the Americans upon the Filipinos and a belief foisted upon us that with the existence of the American bases in the Philippines, we would be protected against external aggression? And what happened? We were bombed considerably by the Japanese and the American bases did not secure our country from external aggression. The Americans failed to defend the Philippines at that time.

MR. PADILLA. With or without U.S. military bases, in all these countries that were included in the plan of the Greater Asia Coprosperity Sphere, Japan was still bombing, invading and occupying all these countries of Asia. It is not correct to say that there was very little bombing here actually. It is not correct to say that we were bombed, invaded and occupied because of the U.S. military bases. I believe that is a conclusion which is not supported by facts.

MR. NOLLEDO. I understand that Manila, where the Americans were also stationed, was the most devastated city after Poland in the whole world.

MR. PADILLA. That is not correct. The City of Manila was made a free city upon the entry of the Japanese forces. It was then General Homma who issued his military decrees saying, "The Philippine Constitution, the Philippine laws are not applicable, only my military decree." That is a fact. Hence, when was the other portion of Manila and the other side of the Pasig River destroyed? It was not during the invasion of the Japanese, but rather when the Japanese were retreating at practically island by island after General MacArthur's liberation forces proceeded in its liberation movement from Australia up to the Philippines.

MR. NOLLEDO. History will support me that the Japanese came here with full hatred against the Americans. They were looking for the Americans and not for Filipinos who fought them. It was only secondary that they were after the Filipino guerrillas. They were always looking for the Americans in order to kill them. Hence, that constituted a burden upon the Filipino people.

MR. PADILLA. The Japanese imperial forces were not interested in a few Americans or a few Filipinos. They were interested in their expansion to dominate the entire Asia. They were not interested in few Americans who were interned in Santo Tomas or some of the guerilla forces that were later on arrested, detained and tortured by the Japanese.

From 1942 to 1945, the Filipino people suffered immensely. Many of the older Members of this Commission could verify that fact. The younger ones who were born after 1945 have not experienced the difficulties, tribulations and the enormous exactions made by the Japanese imperial forces in the Philippines. It was Bataan and Corregidor that delayed the timetable of the Japanese expansionist movement for that so-called Greater Asia Coprosperity Sphere.

MR. NOLLEDO. That was the reason why the United States imposed upon us Resolution No. 93 because the Philippines is strategically located for the protection of U.S. allies, like Australia and New Zealand.

MR. PADILLA. What is that Resolution No. 93 and on what date was it filed?

MR. NOLLEDO. Resolution No. 93 was the actual basis of the RP-US Bases Agreement allegedly for the mutual defense of the Philippines and the United States.

MR. PADILLA. We are talking of the world war in the Pacific, from 1942 to 1945.

MR. NOLLEDO. Yes, Resolution No. 93 was the effect of the Japanese war. The United States thought that because of the delay in sending the Japanese forces due to the strategic location of our country, the Philippines was necessary for the defense of the United States.

THE PRESIDENT. Can we go to another subject?

MR. PADILLA. I will just finish my observations, because these are very important.

THE PRESIDENT. In fact, I would like to add that my husband fought in Bataan and he participated in the Death March and was imprisoned in Capas, Tarlac – for the Filipino people and not necessarily for the Americans.

MR. PADILLA. Yes. General Douglas MacArthur had to abandon Bataan and Corregidor because they could not possibly defend further the Philippines which had already been invaded and occupied by the Japanese imperial forces.

But the heroism of the Filipino soldiers and generals in Bataan and Corregidor together with the American soldiers delayed successively the timetable of the Japanese imperial forces. We had to wait three long years but the people with the help of genuine guerrillas were imploring the aid of Divine Providence for the redemption of that solemn pledge of General Douglas MacArthur: "I shall return."

Madam President, we have to realize that militarized Japan at that time was very abusive and aggressive, much more abusive even than the Marcos dictatorial regime. With this very strong military decision of Japan to dominate Asia not only economically but also politically, as stated in that misleading slogan of "Greater Asia Coprosperity Sphere," I regret to even believe how the different countries of Asia could have succeeded in preventing or removing this Japanese domination. That is why the Filipino people are grateful to General MacArthur who represented the liberation forces that worked for the redemption and liberation of the Philippines and the entire Filipinos from the Japanese yoke of forceful invasion, occupation and domination.

Thank you, Madam President.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. This is just for the record. When we were fighting the Japanese, my soldiers asked me: "Sir, why are we fighting a US war?" I said, "No, we are not fighting a war for the United States. We are fighting this war because the Japanese violated our sovereignty and our dignity." The same answer I gave Commissioner Davide; the Japanese violated our women and the small children were being thrown up the air and caught with bayonets. This is what we were fighting for.

During the Japanese regime, I humbly say that I happened to be a division commander of a guerrilla unit of 12,000 men all armed in the Province of Bukidnon. There were a few Americans and I pointed to them: "We are not fighting your war; we are fighting because the Japanese transgressed our sovereignty."

On the matter of the strategic importance of the Philippines, allow me to state that it was indeed a Japanese tactical error or strategical error to first subdue the whole Philippines, offering almost no resistance at all, before they proceeded to the other places. That was a great strategic error, and this was written in military books. The plan of the Japanese was to totally conquer the Philippines before they proceeded to Burma, Malaysia, and so on. They were inflexible in their plans, such that even if the resistance of the Filipinos in Bataan and Corregidor was almost negligible, they still would have to first conquer the whole Philippines before they could proceed to their next objective. Their plan was inflexible and so they were unable to follow their timetable. It was not because of Resolution No. 93, but it was really an error of the Japanese.

I heard that the United States was the only one with a powerful weapon like the atomic bomb which she used on Hiroshima and Nagasaki. For the benefit of those born after 1945, I will say that that is an error because at that time the Germans were already perfecting their missiles ready to be used in England. Hence, General Patton and General Montgomery rushed towards Berlin in order to get the German scientists and destroy the production of these missiles. They were lucky because they went ahead although General Eisenhower told them to stop because it is their agreement that the Russians will first enter Berlin. General Patton did not obey that. He went through their plan, got the scientists of Germany, transported them to the United States and perfected the atomic bomb. But the missiles of Germany were already prepared to be used on Great Britain. Only by the courage and the disobedience of General Patton to the agreement that it would be the

Russians who will first enter Berlin. But General Patton said, "No, I am on my way. I will have to go to my objective."

The reason why the atomic bomb was perfected was because the German scientists were immediately captured by General Patton, transported them to the United States and perfected the atomic bomb. The missiles of Germany were ready when they were conquered.

I agree with the President's statement that her honorable husband fought the war, not because he fought for America but because he fought for the sovereignty and the protection of the dignity of our women and our children who were abused by the Japanese forces.

Thank you, Madam President.

THE PRESIDENT. Thank you.

Who is our next speaker?

ADJOURNMENT OF SESSION

MR. RAMA. Madam President, I move that we adjourn the session until tomorrow at nine-thirty in the morning.

THE PRESIDENT. The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:37 p.m.

R.C.C. NO. 85

Wednesday, September 17, 1986

OPENING OF SESSION

At 10:01 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Wilfrido V. Villacorta.

Everybody remained standing for the Prayer.

PRAYER

MR. VILLACORTA. Almighty God, our only Master and Savior, early this year we implored You to give us Your help in overthrowing the dictatorship. In return, You gave us a miracle. This time we are once more asking Your help in realizing a pro-God, pro-people and pro-Filipino Constitution. We beg You to give us another miracle. In this supplication, we shall recite the same prayer that we sang throughout the campaign and the revolution.

Mga kasama ko sa Constitutional Commission, ating awitin ang Ama Namin.

Everybody sang the Ama Namin.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present*
Aquino	Present*
Azcuna	Present*
Bacani	Present
Bengzon	Present*
Bennagen	Present
Bernas	Present*
Rosario Braid	Present
Calderon	Present*
Castro de	Present
Colayco	Present
Concepcion	Present
Davide	Present
Foz	Present*
Garcia	Present*
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Present
Lerum	Present*
Maambong	Present*
Monsod	Present
Natividad	Present
Nieva	Present
Nolledo	Present
Ople	Present*
Padilla	Present
Quesada	Present
Rama	Present
Regalado	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present*
Suarez	Present
Sumulong	Present
Tadeo	Present*
Tan	Present
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present

The Secretariat is in receipt of official advice of absence of Commissioner de los Reyes.

The President is present.

The roll call shows 31 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. RAMA. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

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*Appeared after the roll call

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Ms. Ma. Persevera Razon, College of Social Sciences and Philosophy, University of the Philippines, Diliman, Quezon City, expressing belief that the U.S. bases issue is a major item that should be included in the deliberations of the Constitutional Commission, at the same time pointing out the disadvantages of retaining the U.S. military bases in the Philippines.

(Communication No. 920 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from Mr. Vicente Sumbillo, Sr., President, Small Landowner's Association, Dumingag, Zamboanga del Sur, submitting a petition signed by fourteen officers of said association, seeking exemption from the application of "Operation Land Transfer" of small landowners having only one to twenty-four hectares and that the Certificate of Land Transfer issued to tenant-farmers working on landholdings of not more than twenty-four hectares be cancelled and returned to the landowner.

(Communication No. 921 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Letter from Mr. David E. Phillippe, President of the Management Trend Company, 18321 Ventura Blvd., Suite 740 Tarzana, California, submitting a statement– "The Essence of the Constitution, The Rule of Law and Code of Conduct Between Human Beings" – which contains the universal law of acceptable human conduct and behavior in the exercise of the right to life, liberty and the pursuit of happiness.

(Communication No. 922 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. Madam President, I move that we continue the consideration on Second Reading of the Article on Declaration of Principles.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on Preamble, National Territory, and Declaration of Principles will please occupy the front table.

The Chair understands that we are still in the period of sponsorship and debate.

MR. RAMA. Yes, Madam President.

Madam President, I ask that Commissioner Natividad be recognized to interpellate.

THE PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. Thank you, Madam President.

I have only a few questions which I would like to clear up inasmuch as most of these sections had already been the subject of extended interpellations. Section 9 on page 3 states that:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

The State, therefore, is committed to protect the life of a fetus from the beginning of conception. Is that right?

MR. VILLEGAS. Yes.

MR. NATIVIDAD. There is no quibbling about how many months old the fetus is, but for as long as conception has started, is the fetus entitled to protection?

MR. VILLEGAS. That is precisely the reason we have to say "from the moment of conception" because if we do not protect life at its beginning, there is no reason why we have to protect it at any other period.

MR. NATIVIDAD. Madam President, I rose to ask these questions because I had the impression that this provision of the Constitution would prevent future Congresses from enacting laws legalizing abortion. Is my perception correct, Madam President?

MR. VILLEGAS. Exactly. Congress cannot legalize abortion. It would be unconstitutional.

MR. NATIVIDAD. In what way will it collide with this provision?

MR. VILLEGAS. Any direct killing of the unborn from the moment of conception would be going against the Constitution and, therefore, that law would be, if Congress attempts to make it legal, unconstitutional.

MR. NATIVIDAD. As written here in the draft, the right of the mother is written in the same sentence as the right of the unborn. What is the legal significance of this?

MR. VILLEGAS. Madam President, as I said in response to the question yesterday of Commissioner

Suarez, 99 percent of the cases related to protection of the mother's health, making sure that she is in the right working conditions and that she is not subjected to stress, show that there are so many things that can endanger the life of the unborn because the health of the mother is not sufficiently cared for. This is really a prolife provision which emphasizes the fact that in most instances, protecting the life of the mother is also protecting the life of the unborn.

MR. NATIVIDAD. I am not really certain if these questions had already been asked, but I promised the groups in the public hearings and those who came here to see us that I would do so.

The lawyers who came here say that husbands also have the right to participate in the discussion of this provision. They cited the case of a mother who started to bleed and was brought to the hospital. The hospital tried to stop the bleeding but this could not be stopped; the doctor said that the only way to save the life of the mother was to terminate the pregnancy. The husbands told me that in such a case and considering the provision of this draft Constitution, the doctors would hesitate to terminate the pregnancy for fear of colliding with or violating this provision, and of being criminally charged according to our Penal Code.

Is this a correct view of those who fear this probable happening?

MR. VILLEGAS. That is not exactly correct, as we reiterated in the sponsorship speech yesterday.

In a situation where the mother needs medical operation to treat a certain illness but where indirectly the life of the unborn is sacrificed, that is not in any way considered part of this provision because there is no direct intention to kill the unborn. This is covered by the moral principle called the principle of double effect. The intention here is to save the mother and therefore a medical operation has to be performed; and if indirectly, the baby's life is sacrificed, that is not abortion. What is abortion would be a direct intent on the life of the unborn because it is unwanted – either it is the result of rape, in very, very few cases, or the result of incest, or because the baby might come out malformed. In all of these instances, there is absolutely no moral justification for killing the child.

MR. NATIVIDAD. I am trying to draw from my own experiences in the CIS when, during my time, we investigated cases of criminal abortions. Invariably in many of these cases, the records of the clinics dealing with abortion showed that the mothers were brought there already bleeding. The doctors claimed that they only performed a "D & C"–dilatation and curettage–on the patient which in effect terminated the pregnancy. The treatment had to be given because the mother was already bleeding, or the father was not available, because in many instances, she is an unwed mother. But if we investigate the case and look at the records of the clinic, it is exactly as the Commissioner has said: The woman was brought to the clinic bleeding; there was no way to stop the bleeding, so the doctor terminated the pregnancy to save the life of the woman. This in effect was made an excuse for criminal abortion.

We cannot file any case because there are no witnesses. The subject of the case, the woman herself, would be the last person to testify because she would be a coprincipal in the crime of criminal abortion. Another instance in the records of the doctors state that they removed a growth – I do not remember the exact medical term – but invariably it says removal of the growth inside, which could not be removed except by terminating the pregnancy.

So, in fine, would not the Gentleman's statement as to the exceptions to this protection of the life of the unborn from the moment of conception open the floodgates to the insidious practice of criminal abortion in this country? I am basing my question on the response of Commissioner Villegas that the exception to the rule is when the mother's life is endangered and therefore the pregnancy can be terminated.

MR. VILLEGAS. Yes, if there is no direct killing of the baby or if the intention is to operate. The cases enumerated by the Gentleman are instances where either the law has to be perfected, and these are very good examples of how imperfect laws are, and therefore should not be the bases for our writing the Constitution, or that the implementation of the law has to be perfected. I think all of these are precisely instances which we have to work on in perfecting the law and perfecting its implementation.

MR. NATIVIDAD. I subscribe to Commissioner Villegas' view and I was merely testing the validity of his statement. My question, I believe, becomes a question of evidence because it is really hard to convict in a case of abortion when the woman herself would not testify, neither would the boyfriend nor the husband, because they are all coprincipals to the crime just committed. So, based on my own experiences in the actual criminal investigation of these offenses, the fact that the woman would not testify is a loophole in the campaign against criminal abortion. In fact, under the law, even accidental abortion is a punishable offense, especially on the part of the doctor.

For the record again, what is the perception of the committee in cases where, for example, a couple comes to know that the child is deformed? By scientific examination, the unborn child is determined to be facing a life of difficulties because it is deformed or is lacking in organs. What is the perception of the honorable Commissioner on this?

MR. VILLEGAS. Madam President, there is absolutely no moral reason for that baby to be killed because there is no reason why we should assume that only those who can enjoy life or who can find pleasure in life should be allowed to live. The moment we start playing God and start saying that those who cannot enjoy life should be killed, then we know what can happen – we can have all sorts of cripples, handicapped, mongoloids and idiots killed a la Hitler. Precisely, that argument could be a very dangerous argument the moment we say that a baby should be killed because he is deformed and would not be able to enjoy life like every normal person. That is one of the most dangerous, hard-cased exceptions that could open the floodgates not only to abortion but to euthanasia.

MR. NATIVIDAD. I suppose the Commissioner would have the same view when it comes to multiple rape. This is when the woman cannot stomach the prospect of having a child whose father cannot be identified.

MR. VILLEGAS. Yes, because it is not the fault of that person that people have done her wrong. But we should not right a wrong by another wrong. This is one time when society has to be very caring. There are many institutions and charitable groups that can make life pleasant for that victim of rape and let her give birth to her unwanted baby. There are so many people looking for children to adopt anyway. Besides, we very well know that babies are now being created in test tubes. There is always a caring concern which society can give to that poor victim, but definitely, murder is not a solution.

MR. NATIVIDAD. The Gentleman has just mentioned test tube babies. Are they also protected by this Constitution?

MR. VILLEGAS. I have not worked out the legal implications. As we know, that is a very new phenomenon and even in industrialized countries, the moral and other legal implications of test tube babies have not yet been worked out.

MR. NATIVIDAD. But they are already conceived.

MR. VILLEGAS. My tentative answer is that definitely, they should also be protected.

MR. NATIVIDAD. There is life already; they are conceived although the parties may be unknown. The fetus is already a subject of protection.

MR. VILLEGAS. Yes.

BISHOP BACANI. Madam President, may I comment on the unwanted babies. I was reading this little book on a study of unwanted pregnancies and the interesting thing is this: In practically all cases, unwanted pregnancies became wanted babies. In fact, there were more unwanted pregnancies that became wanted babies than wanted pregnancies in the beginning which turned sour.

So I would just like to point out that what initially may be an unwanted pregnancy may, in the course of the days and the months before delivery, turn into a desire for the baby.

MR. NATIVIDAD. Will the kind bishop give an example?

BISHOP BACANI. I was trying to look for the data on that particular experiment which I will show Commissioner Natividad in a few minutes.

MR. NATIVIDAD. I just want to ask another question on Section 4 but I will not be very tedious about this.

This Constitution is not just for one season; it will not be just for a decade. In fact, we expect and we hope that it will last much longer than that. But through the corridors of time, developments may come whereby nuclear weapons might be more common than they are now. Suppose the nation is faced by assault from abroad or from whatever source, and the only solution is for us to defend ourselves against hordes of invaders through nuclear weapons which, at that point in time, are already common, would we deny our nation the use of such a weapon to defend ourselves by postulating now that no nuclear weapons shall ever be deposited, stockpiled or used in this country?

This Constitution is not for now only but for decades and decades to come. Are we going to deprive our future generations of a weapon of self-defense in the future? Who among us can foresee this? The way nuclear weapons are being developed now, they will not be as common as the present Magnum .357. At the time Nagasaki was bombed, the atomic bomb was a highly top-secret bomb. Now, even a university engineering student according to what I read when I was in the United States was able to draft on his own the formulation of an atomic bomb.

So, then, even this highly classified, top-secret atomic bomb that ended the greatest war in history was very secret at that time in 1945. How many years ago was that? Now, it is 1986 – that is barely 41 years ago. After 41 years, that bomb is no longer top-secret. Students are able to write down its schematic diagram and given the materials, no doubt, they can build an atomic bomb.

Is there any assurance from our Commission that 30 years from now, this nuclear bomb we speak of and whisper about today will not be the artillery of tomorrow? And in our desire to serve our country, we forbid that any semblance of nuclear weapons shall ever be deposited, used or stockpiled in our country. This will prevent a means of self-defense for our incoming generations. I am just posing the question to the committee.

MR. TINGSON. That is why our Constitution is made flexible through the amendment process. Twenty, thirty years from now, if indeed circumstances will change, our people and our legislature will know what to do and how to partly answer the Gentleman's query. We will, of course, respond through the Constitution and through the amendment process.

MR. NATIVIDAD. I think we should be broad-minded enough to admit some amendments here because no one can forecast the future.

May I ask one last question for my own satisfaction. There is a motion to delete Section 3, but please correct me if I am wrong. If we delete Section 3, the effect would be the removal of the provision which says:

> Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

This seems unpalatable because it means we are removing the very provision that will forbid military bases. But a summary background of these bases shows that these bases were already part of our nation in 1898 and through the years, from 1898 to 1901, 1907, 1917, 1953, 1959, 1979 and 1983. Our leaders have tackled these problems and all these years the bases were never removed.

Therefore, if this provision is deleted, instead of us having the last say on a problem that has been dealt with by our leaders, then I refuse to admit the postulate that our leaders starting from Quezon, Osmeña, Roxas, Macapagal and Quirino had sold our country down the river. I cannot accept that because they were all honorable men who acted in good faith. All of these efforts will be nothing if we say "No more bases after 1991." But if the purpose of the deletion is to throw this matter back to our people, upang sila ang magpasiya ng kanilang kapalaran sa halip na tayo, ano po ba ang sama doon? Kung iyong paksa ng local autonomy sa Mindanao at saka sa Cordillera, hindi lamang sa pagpapatibay ng Saligang Batas na ito kung hindi pagkatapos ay mayroon pang plebisito sa Mindanao at Cordillera, ay ibibigay natin sa taong-bayan upang sila na ang magpasiya, at kung dapat pang magkaroon ng base militar dito sa ating bansa, ano po ang sama noon? That is my question. Instead of us deciding once and for all if there shall be no military bases in this country that we love, why do we not throw it back to our people after a period of study by our government? I do not belong to the party of the President, but I trust her enough to let her study this problem and then present it to our people.

We are about to disband, my colleagues, in four weeks, and yet we want to decide now the fate of our people and the issue on the military bases. So correct me if I am wrong; tell me if I am unpatriotic; tell me now if I am selling my country down the river if I say that this problem be studied by President Aquino and thereafter submitted to our people in a plebiscite. Is this wrong, Madam President?

MR. TINGSON. Commissioner de Castro would like to make a comment.

MR. DE CASTRO. Madam President, I was one of the proponents for the deletion of Section 3, and I am one of those who would like to give our people the opportunity to determine what is good for them, regarding military bases and a nuclear-free country. Please take note of my recommendation no. 1 on page 8 of my sponsorship speech where I said: A committee should now be formed, composed of persons knowledgeable on the issues involved. There should be a plan both on the strategic and tactical, the economic and the political stability. The people must be informed and their minds must be prepared for the moment of truth when they will have to make a definite stand on the military bases issue consistent with their security and well-being.

The above paragraph means that we should consult the people after the treaty has been made and confirmed by both countries on what they want because, as I said, we cannot speak for 54 million people after having stayed here for only three months.

Thank you.

MR. GARCIA. Madam President, I would like to answer Commissioner Natividad on two points. Let us take this matter by parts – first, the exposition on nuclear weapons and second, the Constitutional Commission declaring itself definitively on this issue.

Yesterday, I mentioned the fact that the escalation of nuclear weapons has reached a level of madness which I think we should now try to stop. In terms of total nuclear warheads, tactical and strategic, there are at the moment a total of 55,000. I mentioned yesterday that this is equivalent – this is the 1984 figure – to 16 billion tons of TNT which, on the average, means three tons for every man, woman and child living on earth today.

The reason we do not want to be part of this nuclear madness is that we do not believe that the problems of the world should be resolved in this fashion. There are enough nuclear warheads to blow this world, to destroy humanity many times over. And somehow, because we have bases here and because there are nuclear weapons in these bases, we are part of this entire nuclear system.

Even the U.S. Catholic bishops, in their pastoral letter on war and peace which was first drafted in May 1983, condemned the arms race as one of the greatest curses on the human race. The U.S. Catholic bishops, in their pastoral letter, concluded:

> The whole world must summon the moral courage and the technical means to say "no" to nuclear conflict; "no" to weapons of destruction; "no" to an arms race which robs the poor and the vulnerable; and "no" to the moral danger of a nuclear age which places before mankind indefensible

> choices of constant terror or surrender. Peacemaking is not an optional commitment but a requirement of our faith.

I think Commissioner Azcuna has told us earlier in his sponsorship speech that there are many areas in the world today which are declaring themselves nuclear-free zones. For example, the Treaty of Tlatelolco declared Latin America a nuclear-free zone; other places like Africa, the South Pacific where New Zealand and Australia are parts, and also Palau, have declared themselves nuclear-free zones. Palau, the very first country in the world to ratify a nuclear-free constitution in 1979, banned the use, testing, storage and dispersal of nuclear weapons as well as toxic chemicals, gas and biological weapons. Of course, the example of New Zealand is unique. Their Prime Minister, David Lange, when he was here, manifested that his country has taken the lead in nuclear disarmament in a dramatic move to reject US nuclear warships in his territory.

The issue on nuclear-free zone is also embodied in Article XXXIII of the final document of the United Nations First Special Session on Disarmament in June 1979. It says:

> The establishment of nuclear weapons-free zones must insure that the zones are genuinely free from nuclear weapons and respect for such zones by nuclear weapons states constitutes an important disarmament measure.

Why do we advocate a nuclear weapons-free Philippines? First of all, I think it is a statement of the Filipino people's rejection of nuclear war and nuclear weapons; it is also a step towards the demilitarization of Southeast Asia and the Pacific.

MR. NATIVIDAD. I am with the Gentleman in that.

MR. GARCIA. It is also a major contribution towards global nuclear disarmament; and, finally, it reduces the threat to security and survival of the people of the Philippines and the world. It is very important for us right now to reject our being part of this nuclear escalation. Just because other nations are going to use the nuclear threat does not mean that we wish to have it as part of our retaliatory efforts. There are other ways. In fact, in Section 1 of the Declaration of Principles, we state that we renounce war as an instrument of national policy, so why, therefore, can we not say also that we renounce nuclear weapons as one of the ways by which man must deal with other nations? That, for me, is a very valid point.

In the Philippines right now, there are, in fact, already 10 nuclear-free zones declared by at least ten cities and provinces comprising 3.6 million people. In other words, there is a growing realization or consciousness in this country that never again must nuclear weapons be employed as was done in the past.

MR. NATIVIDAD. I agree. I have no quarrel about that, Madam President. Even as a student, we studied the horrors of nuclear war. All I was trying to do was to explore as an exercise of our freedom of speech here — when we close the door, I was just thinking: Baka naman kailangang mag-iwan tayo ng kaunting puwang. Baka pagdating ng araw, kung saradung-sarado na ang pintuan, tayo, bilang isang bansa, ay haharap sa panganib at wala tayong matatakasang isa man lang maliit na butas para sa ating mga kababayan. Ang mga kaisipan at damdaming ito ay bunga ng sinabi ng Con-Com noong Setyembre 1986, na kailanman ay hindi magkakaroon ng anumang kasangkapang maaaring gamitin sa pagtatanggol ng ating bansa kung ito ay magiging nuclear. Ang akin lang iniisip, baka sakaling iyan ay kailanganin natin sa pagtatanggol sa ating sarili. Subalit hindi ako tumututol sa mga sinabi ni Commissioner Garcia tungkol sa mga kagimbal-gimbal na pangyayari kung gagamit tayo niyan.

Walang taong nasa kanyang sariling isip ang tututol sa sinabi ng Ginoo sa maaaring mangyari kung gagamit tayo ng bombang iyan — dapat iwasan iyan. Dapat kung may magagawa tayo'y huwag na tayong masangkot diyan. Hindi naman tayo maaaring masangkot diyan, sapagkat hindi naman tayo nakaiimbento pa hanggang ngayon ng nuclear weapon. Iyon lang pamalengke ng Filipino ay hinahanap pa natin, iyon pang paggawa ng bomba! Hindi pa natin iniintindi iyan. Ang iniintindi lang natin ngayon ay pagkain, kape at saka lugaw. Hindi pa natin naaabot iyang yugtong iyan na tayo'y makikipagpaligsahan sa bomba.

Ang iniintindi ko lamang ay iyong pagtatanggol sa ating sarili, kapatid na Komisiyonado, na kung dumating ang araw hindi tayo sisihin; hindi tayo susurutin ng ating mga kababayan na kaya tayo hindi makapagtanggol ng dalampasigan ng ating bansa ay sapagkat noong 1986, ginapusan ng Con-Com ang inang bayan at hindi binigyan ng pagkakataong magtanggol sa sarili kung kinakailangan na. Kailangang gamitin din hindi lang ang ating puso, kung hindi ang ating isipan sapagkat wala nang higit na kahambal-hambal sa isang bayan gaya ng masangkot sa digmaan na hindi ka handa at wala kang pananggalang.

Marami ritong beterano ng World War II. Wala nang kahambal-hambal na pangyayari kung magkakaroon ng digmaan at wala ka man lamang pananggalang sa iyong sarili. Sinasabi ko ito sapagkat kami'y nagdaan na sa digmaan. Nakita namin kung ano ang maaaring mangyari sa ating kabataan. Noong magsimula ang digmaan, teenager na ako at nakita ko si Presidente Quezon. Nasa tabi ako ni Presidente Quezon nang siya'y nagtatalumpati sa harap ng mga UP Cadet Corps. Tumutulo ang luha niyang sinabi: "Ang iniluluha ko ay hindi nakahanda ang kabataan upang humarap sa dumarating na digmaan."

Salamat po.

MR. GARCIA. May I be allowed to answer that, Madam President.

In this nuclear age, we cannot say that we can prepare for war or a nuclear war because we have nuclear weapons. In a nuclear war, there are no winners; in fact, there are no survivors. I think it is a fallacy to say that we prepare for future wars by having the ability later on or the probability of our having nuclear weapons. In fact, the major contribution of a country like the Philippines is to declare to the world that we do not believe in this nuclear madness. The only way that the world can survive is for us to make our voice loud and clear that nuclear weapons must not be used as a deterrent because, in fact, they are not.

In the theory of the nuclear winter, military bases themselves are obsolete because they cannot defend against a nuclear war. The only way we can defend against a nuclear war in the future is if we can by our moral leadership as a country and by our efforts with other nations begin to say to the superpowers that nuclear weapons must be eliminated; otherwise no nation will survive the next holocaust.

I would like to comment on the second question regarding the fact that we should leave it to our leaders and to the others who are elected to make a definite statement on whether or not we should address the bases issue in this Constitution. We have had the bases for as long as the North Americans have been in this country. Since 1902, nearly 90 years ago, the bases have been here. It is very important that we should not leave to political fortunes the changes in political administrations, but rather we should make, first of all, a statement that the military bases have been imposed on us because of the circumstances of war. Due to the colonial imposition in that period, the military bases agreement is null and void and, therefore, should not be acceptable. Secondly, if there will be new negotiations for a treaty or bases, then that will be the time when our people should declare but, first of all, it is important that what has been negotiated must be declared null and void. We must state categorically and clearly that the bases issue was imposed under duress. It was a colonial imposition for which our sovereignty has been impaired and, therefore, we must redress this historical aberration.

I think it is important that the Constitutional Commission draft a Constitution which is truly sovereign in character. Why have we all of a sudden lost our political will, our constitutional confidence? I think our people are looking up to us to draft a fundamental law truly sovereign in character. As I mentioned yesterday, we can make mistakes regarding parliamentary, presidential, unicameral or bicameral forms of government, but we cannot make a mistake on this question of sovereignty and survival because it may be too late. These for me are very valid and vital points.

MR. NATIVIDAD. I do not intend to talk again because the Floor Leader might have an attack of high blood pressure. But I just want to say that it is too late in the day to declare the military bases agreement null and void. Why? Do we want to return the hundreds of millions of dollars we got from the United States? Are we ready to return them? Why did we get all these benefits from the United States if we will declare the agreement null and void? Can we say that this is null and void and keep quiet about the money we got from the United States in compliance with the agreement?

How about the 42,205 employees that are now employed in the bases, and the 500,000 indirect employees? Are we prepared to tell these people to leave their employment because the bases agreement is null and void? And how about the money which has been appropriated by Congress over the years for the maintenance of the bases? The bases agreement was made in 1947; it is now 1986. How can this 47-member Commission now declare that agreement null and void, Madam President?

MR. GARCIA. Madam President, may I answer Commissioner Natividad.

Yesterday, we mentioned that the *de facto* situation is that these bases are occupied; the agreement has been made but is flawed from the very beginning, and that we must correct that flaw, that historical aberration by making a strong declaration. But we cannot change that anymore; it has been there merely by force. The point though is that we have said in our accommodation in the article that we are not asking them to leave; in fact, we are allowing the expiration date until 1991. But the point is, a new treaty cannot be renegotiated. It must be made with the approval of the Filipino people because the last executive agreement was without the plebiscite or without the approval of the Filipino people. That is what we want to correct historically but the point is, *de facto* it is there. I admit we cannot change that, but *de jure* we can question it.

MR. NATIVIDAD. But that is precisely the purpose of the deletion – to present it to the people. But if we now declare that it is banned forever, we have no provision to present to the people. It is the reverse of what the Gentleman is saying.

MR. NOLLEDO. Madam President, may I answer.

MR. NATIVIDAD. We want it submitted to the people if we do not delete that; besides, the Transitory Provisions provides that after 1991, there will no more be foreign military bases. So, what is there to submit to the people for ratification? Precisely, we want it submitted to our people.

MR. NOLLEDO. Madam President, we are talking of the existing so-called RP-US Bases Agreement. Commissioner Garcia is talking of possible . . .

MR. NATIVIDAD. Yes, we have amended the agreement 40 times despite its being null and void. Why have we amended it 40 times already? From the Philippine government, there have been 40 amendments already and several ratifications – 1979 and 1983 are the latest.

Kung baga sa mag-asawa iyan, labimpito na ang anak ninyo, ayaw pa ninyong aminin na kayo'y magkaisang-puso.

I submit, Madam President.

MR. NOLLEDO. Madam President, I would like to make some comments about the alleged financial significance of the RP-US Bases Agreement.

THE PRESIDENT. Please proceed.

MR. NOLLEDO. We still maintain that the RP-US Bases Agreement is really null and void, and a null and void contract cannot be ratified. The government is not estopped by the illegal acts of its officers. And when we talk of returning the money we received from the United States, we cannot deny that the United States also used the bases even in pursuing the wars in Vietnam and in Korea, and the United States benefitted to a great degree from the use of the bases. There is no obligation to return. The obligation to return does not exist even if we claim that the contract is null and void under all canons of civil law and canons of equity. So, we are not supposed to return. And all arguments against the validity of the RP-US Bases Agreement are concrete and we cannot deny that the United States benefitted because these are for the protection of U.S. interests. We are subservient.

If we follow the arguments of Commissioner Natividad, then any country can come to the Philippines, bring in dollars and control the whole country. It is very easy for any foreign government to come over, bring in dollars, and then we surrender our sovereignty for financial reasons.

MR. NATIVIDAD. I have not said anything like that. It was the Gentleman who made such statements. Why should I say that any country who comes here brings in dollars?

THE PRESIDENT. May I remind the Gentlemen to please maintain order.

MR. NOLLEDO. Sapagkat ang kalayaan ng ating bansa ay hindi nasusukat sa salapi. The financial aspect should be set aside. We should maintain our dignity not through mercenary reasons.

MR. OPLE. May I raise a parliamentary inquiry, Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. When Commissioner Nolledo spoke of mercenary reasons, was he referring to any remarks just made by Commissioner Natividad?

MR. NOLLEDO. No, not necessarily. Tinanong ni Commissioner Natividad kung ano raw ang mangyayari sa salaping tinanggap natin sa America kung ating ipagpapatuloy ang aming sinabi na ang RP-US Bases Agreement ay null and void. Palagay ko hindi magandang tingnan iyan.

MR. OPLE. Thank you for the clarification. I was only interested in the civility of these proceedings, Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Commissioner Nolledo mentioned, if I am not mistaken,this is in the Civil Code, that in civil law, contracts are valid, unenforceable, voidable or void, and if a contract is rescissible or voidable, assuming a contract is voidable, it is not the right of either party to declare a contract rescissible or voidable, much less void. But assuming there is a degree of nullity, the basic rule is mutual restitution. "Void" means inexistent, and a contract is only void or inexistent under the Civil Code under very specific grounds, and definitely either party to a contract or agreement cannot *a priori*, and much less on its own judgment, declare a contract voidable, much less void.

I have heard the interchange of questions and answers and I was impressed by the fact that those who say it is void assume erroneously that a contract is void. That cannot be done unilaterally by any person, not even by a contracting party.

Thank you, Madam President.

MR. NOLLEDO. Madam President, may I answer that very important statement from the Vice-President.

THE PRESIDENT. Please do so as briefly as possible.

MR. NOLLEDO. Yes, Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. We have what is known as *in pari delicto no noritur axio* when both parties are guilty. But in this case, public policy demands that we can unilaterally state, based on existing facts, that the RP-US Bases Agreement is null and void as I already explained yesterday.

Thank you, Madam President.

MR. PADILLA. Madam President, just one statement. Commissioner Nolledo mentions *in pari delicto*, but if there is *in pari delicto*, neither party can bring an action.

MR. NOLLEDO. Yes, but because the government officials acted beyond their authority, they are at fault and that is why there is need to return the money allegedly received by the RP from the U.S.

MR. RAMA. Madam President, I ask that Commissioner Aquino be recognized.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, before the issue on the right to life is lost in the interdebate on the vexing question of the U.S. bases, I am intervening to settle some matters about the matter of the right to life.

I am very much alarmed by the absolutist claim to morality in the defense of human life, the defense that was raised by Commissioner Villegas. There is presently a raging debate on the philo-ethical considerations of the origin or the beginnings of human life that at this moment, I do not think we are in any position to preempt the debate and come up with a premature conclusion on the matter. There are still pressing questions in my mind, such as: Is the biological existence of a potentiality for life synonymous with human personality? Is viability synonymous with life? There are at least a dozen theories that attempt to address themselves to this kind of question. For example, we are aware of the Thomistic concept of hylomorphism which posits the complementarity of matter and form. The theory demands that before human life is assumed, the material body demands a certain measure of organization and form that makes it capable of receiving the soul. It operates on the premise that individuality is the basic premise and the fundamental criterion for human life and human personality and individuality requires consciousness and self-reflection.

There is another theory which states that human life begins two to three weeks after conception; that is, after the possibility on the process of twinning the zygote or the recombination of the zygote is finally ruled out. These are questions that need to be addressed in our Civil Code. For example, in the context of this discussion, Articles 40 and 41 are settled that personality is determined by birth, and that for all purposes favorable to it, a conceived baby is considered born but subject to the conditions of Article 41 which says that personality is determined by live birth. I would think that Articles 40 and 41 are not only settled, but are the most practical approach to the raging debate on the matter of human life. It lays as the criteria for its conclusion the individual biological criteria, with special emphasis on the physical separation of the fetus from the mother and the requirements of viability.

I am alarmed by the way we tend to preempt this kind of discussion by invoking the claims of the righteousness of morality. These questions for me are transcendental that we cannot even attempt to address any conclusion on the matter unless we can address the question without temerity or without bigotry. Besides, the level of human knowledge on this debate is so severely restricted that to preempt the debate is, I guess, to preempt the deliberations and finally the possibility of agreement on the diverse theories on the matter.

MR. VILLEGAS. Madam President, it is precisely because this issue is transcendental that we have to make also a transcendental statement. There is no debate among medical scientists that human life begins at conception, so that is already a settled question. We are talking about life. As I said, we are not talking about human personality, neither are we saying that the human person can be decided precisely by law, nor at what time it will have the right to property and inheritance. The only right that we are protecting is the right to life at its beginning, which medical science genetics has already confirmed as beginning at conception.

The Commissioner's very point of viability is precisely the key to opening the door to all types of abortions that have been made possible in other countries. If we say that the fetus cannot be considered alive because it is not yet viable, then as I said yesterday, we have to continuously protect even the baby that is not yet born. If we start leaving it to its own elements or expose it without protecting it, then for the same reason that specific creature will not be viable.

MR. OPLE. Madam President, will Commissioner Aquino yield to just one question?

MS. AQUINO. Yes, gladly.

MR. OPLE. Thank you.

THE PRESIDENT. Is Commissioner Villegas through with his reply?

MR. VILLEGAS. Yes, Madam President. I yield to Commissioner Ople.

MR. OPLE. Commissioner Aquino expressed her concern about this debate preempting a full discussion on the right to life, implying that there is a curb in the debate. Did I get her right, Madam President?

MS. AQUINO. Yes. In fact there is a collective drift already.

MR. OPLE. What is the basis of the serious accusation that this Commission is curbing the debate on what both sides have called a transcendental issue on the right to life?

MS. AQUINO. The reason for my intervention, Madam President, is that I am extremely bothered by the diversion on the claim of morality in defense of human life. Nobody can argue against morality, but that is precisely the question. The minute we go into the question of morality, it by itself preempts the possibility of a thorough, scholastic and academic discussion on the debates on human life.

MR. OPLE. Is Commissioner Aquino saying, based on what I heard a while ago, that the fetus in the womb of the mother has not risen to the level of a human personality?

MS. AQUINO. There is no conclusion on that yet.

MR. OPLE. That until the baby is delivered from the womb, there is a latency to this human personality which becomes actualized only upon the moment of birth. Is that correct, Madam President?

MS. AQUINO. That takes off from one of the theories on the interpretation of the beginnings of human life. But that is also the very premise of Articles 40 and 41 in the Civil Code.

MR. OPLE. And that, therefore, Commissioner Aquino is saying that the standards of morality, political and human rights cannot apply to this latent personality in the womb until it is delivered to become a member of the human community?

MS. AQUINO. That is a misleading question and I do not want to fall into the trap. That is precisely the debate going on now, and there is no settled answer to that question.

MR. OPLE. Madam President, it is not a trap; I am not laying a trap, but from a layman's point of view, I consider myself one of the more ignorant Members of this Commission on this subject. But that is precisely the jugular issue that has emerged from the debates so far, and I would like to reassure Commissioner Aquino that the day before, I had actually talked to Commissioner Bacani to express my own concern that the other side of this issue may not be heard fully and, as a matter of fact, I volunteered to be a devil's advocate, if he would allow me. Commissioner Bacani said that Commissioner Aquino would suffice as a lone devil's advocate, so that our record would reflect the fullness of this issue on both sides.

MS. AQUINO. I would welcome Commissioner Ople's cooperation and I would like to assure him that the debate on this issue is not a monopoly of the celibates and the bachelors.

MR. OPLE. So, Madam President, I am for lifting any curb on these debates and I support the demand of Commissioner Aquino for a full debate on the right to life.

Thank you.

THE PRESIDENT. That is what we are undertaking now, full debate.

Does Commissioner Bacani desire to enter the debate?

BISHOP BACANI. Yes, Madam President. I am a celibate. But let me first say that I reject very clearly the idea that viability is the test or the proof of human personality, and I think that can be conclusively proven, Madam President. If that were to be the test, then people would have different stages of human personality according to the countries in which they were born.

For example, in the United States way back in 1973, they could make a 20-week old or 5-month old fetus survive. They have these records: Two babies at 25 weeks, two at 24, one at 23, one at 22, two at 21, and one at 20 weeks, and the prognosis is that by the end of this century, they could make them viable at 10 to 12 weeks.

Madam President, if we take viability as the test of human personality, then we Filipinos will indeed be inferior to the Americans. I do not want to admit that. Second, let me just point out that up to now there has not been in the whole world any group as prestigious as that which met together in the First International Conference on Abortion in Washington, D.C. in 1967. I notice this is a scientific group, not a Christian group necessarily. During their workshop and by a vote of 19-1, they asserted:

> The majority of our group could find no point in time, between the union of sperm and egg or at least the blastosis stage and the birth of the infant, at which point we could say that this was not a human life.

As Dr. and Mrs. J.C. Willke pointed out:

> There has not been before nor since a more important or a more qualified body of natural scientists who, as a group, have thoroughly discussed and come to a conclusion on this subject.

I would like to point out that the doctors in the 1948 Convention in Geneva made this oath which was revised but kept in the 22nd World Medical Assembly in Sydney, Australia:

> I will maintain the utmost respect for human life from the time of conception. Even under threat I will not use my medical knowledge contrary to the laws of humanity.

Madam President, the witness of the Father of Fetology points out that from the very beginning, one can already point to very definite signs of life in the fetus. Let me just correct Commissioner Aquino when she says that consciousness is a requirement of human personality. If that were to be the case, then people who are no longer conscious would be deprived of their human personality. And certainly, that was not the position of St. Thomas Aquinas whom she quoted.

MS. AQUINO. Madam President, for some clarification.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I did not make the conclusion that individuality is a requirement of human personality. It is one of the many theories. In fact, the exposition of Commissioner Bacani admits of the divergence of interpretations out of this question. Precisely, we have the physico-biological determinism. We have the matter of viability which he himself ruled out by saying that scientific knowledge can, in fact, intervene in the matter of viability. Then we have the possible criterion of individuality. This and many others are not settled in answering the questions of when human life begins. But what bothers me – and that was my position when I intervened – is that when we constitutionalize that kind of provision of protection to human life from the moment of conception, it will be a tragic injustice to law and settled jurisprudence. The law cannot deal in speculation. The law deals in reality; it does not deal with obscurity. It deals with the known rather than the unknown.

BISHOP BACANI. Madam President, may I again intervene. First of all, my personal belief is that this provision does not even depend on whether or not we recognize a strict right to life, that is why I proposed the family rights provision which, I believe, is a stronger one. And, secondly, Commissioner Aquino said that we cannot deal in speculation. Let me put it this way. On the other hand, when there is a doubt regarding questions of life and respect for human life, one must try to be on the safe side. For example, if one doubts whether a person is really still alive or is already dead, he is not going to bury that person. He is going to make sure first that that person is really dead because if he buries that person and says: "Well, I cannot rely on speculation. I cannot be completely certain," then he is hurting life or risks hurting life. Suppose there is an object moving in the thickets; I see it and as a hunter I say, "Well, I am not sure whether it is a human being or an animal; but nevertheless I am hunting now, I will shoot." I do not think that that is a very prudent thing to do.

REV. RIGOS. Madam President.

THE PRESIDENT. Is Commmissioner Bacani through? May we hear Commissioner Rigos in this interesting debate?

BISHOP BACANI. Yes, Madam President, but I shall ask to intervene later. I just answered Commissioner Aquino.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. I just want to ask the committee and Commissioner Bacani whether it is safe to say that in order to prevent Congress from making any law legalizing abortion, we better constitutionalize this first moment of conception. Is it safe to say that?

BISHOP BACANI. That can help Congress later on; besides, the provision is a very positive one – to protect the life of the mother and the life of the unborn from the moment of conception. It is very important that we have this provision.

REV. RIGOS. Can we not just say that the State shall protect the life of the unborn child, without saying "from the moment of conception"?

MR. VILLEGAS. May I answer that, Madam President.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. As I have said, we must prevent any possibility of legalized abortion, because there is enough jurisprudence that may be used by Congress or by our Supreme Court.

Let me just read what happened after the *Roe v. Wade* decision in the U.S. Supreme Court. After that 1973 decision, during the first three months of pregnancy, the court ruled: "States cannot prohibit voluntary abortions, making abortions on demand possible." The court further said that the decision should be left completely to the woman and her doctor. Then during the remaining six months of pregnancy, "States may regulate abortion procedures in ways reasonably related to maternal health." And during the final ten weeks of pregnancy, there is still a door open – "States may," not shall, "prohibit abortion, except where doctors find that the pregnancy endangers the mother's life."

So, these are the floodgates that are open.

REV. RIGOS. Which are?

MR. VILLEGAS. As I said, American jurisprudence looms large on Philippine practice and because it is a transcendental issue, we have to completely remove the possibility of our Congress and our Supreme Court following this tragic trail.

REV. RIGOS. Which means that if we, for instance, do not like Congress to legalize the Communist Party in the Philippines, we better say so in the Constitution. If we do not like Congress to legalize gambling, we better state this in the Constitution. If we do not like Congress to legalize divorce, we better put it in the Constitution. Is that the idea, Madam President?

MR. VILLEGAS. As I said, life is the beginning to every other right – whether it be rights violated by Marxism, rights violated by the wrong marriage laws. We are just talking about the beginning of all rights. So, I do not think the argument is correct.

MS. AQUINO. Madam President, may I make some corrections.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I would like to correct the misinterpretation of Commissioner Bacani in his dissertation of St. Thomas' study of the right to life. The Thomistic concept of hylomorphism precisely operationalized the question of complementarity of matter and form, saying that there is a decent requirement for a decent standard of form and organization before a soul can be effectively infused into life.

This brings forth the discussion of organic life as against human life. Every organism has life. There is no debate on that. But is this the organic life that is deserving of value, safeguard and protection that is due a human person? Is there enough contingency of state interest to precisely get into the act of debating on whether the baby of a victim of a multiple rape is entitled to state protection by prohibiting abortion? What I am saying is there is no proof and jurisprudence is not settled even with the decision in *Roe v. Wade* that the state has sufficient contingent interest in the life of the unborn. By what right has the State then to meddle in bodily integrity which is basic in dignity and self-determination? I am not advocating abortion, but these are questions which are bound to be raised on matters of testing the jurisprudential cogency of a law on abortion.

BISHOP BACANI. Madam President.

THE PRESIDENT. Excuse me, but Commissioner Quesada has been standing there and she would like to contribute to this.

MS. QUESADA. Thank you, Madam President.

I would like to be involved in this debate, although I am one of those who earlier proposed one provision on the right to life. I am speaking in behalf of women who will not be here to represent some of their positions, their views on the matter of the right to life. I am not a celibate; I am a mother of six, so, I know how it is to be pregnant, to go through nine months of pregnancy. I have worked as a nurse in urban poor communities and in rural areas. I can feel what it is to go through the period of conception, particularly, in a situation where one has to grapple with life and death – the struggle for survival for many women carrying their young or their unborn.

I would really like to clarify some of the drift I was able to pick up from the discussion of the proponent, and that is, this particular provision seems to have focused mainly on the protection of the right to life, that it is only a token provision to guarantee the equal rights of women, a protection from the State. It appears that when there is this conflict between the life of the mother and of the unborn, it is the right of the unborn that is given the predominance only when there is the threat to life. I am bothered by the thought that when we talk about life of the mother, we are talking only of physical life – we are not talking about the emotional and the mental life of the mother. They are part of her life and are affected by a case, let us say, of multiple rape. It is very easy for men who are not raped or who will never be raped to talk about a caring society who will take care of a child who is the product of multiple rape. I mean it is very easy for us to say this, but what right have we to make a choice for women who are the victims of multiple rape and what it does to them for the rest of their lives, that if she becomes mentally insane because of this, then we can pass moral judgment and say: "You have no right to your body and the choice you make about the product of multiple rape and even of incest"?

I think there is some kind of split-level morality here. We talk about a kind of morality for the unborn, but we have no consideration for the right of the mother who has a soul that will have to suffer in hell when she has to live through the agony, the suffering of having gone through a multiple rape, because it appears from the discussion that only in case of ectopic pregnancy when the life of the mother is at stake that we will now morally sanction as being right for her to undergo abortion or a therapeutic abortion, as we call it in medical language. So, I feel that there are some issues here that seem to have bemuddled my concern because as a nurse I think about the totality of the care of the mother and child, not only from the time of conception. That is why I have compromised in this particular provision that it should equally protect the mother and child, not just at the time of the conception, but throughout because what is the good of having a child born and not to have the equal protection up to the time a child is able to survive? We know for a fact that in the Philippines, there is a high infant mortality rate; 58 per 1,000 live births. That means that before reaching the age of one, these unborn children that we care for are born, but then they end up dying, because these children get connected with the kind of society which we want to be caring but is very unjust and inhuman. They die from communicable diseases, from malnutrition, from gastroenteritis, from the poverty that is so predominant in many of our communities, not only here in Manila, but throughout the Philippines.

We have this kind of health situation that I, as a health worker, care about because women are making decisions. With this kind of provision, it will be a moral decision versus a practical decision which many women will have to make. They will make the decision and so they end up going to Quiapo, buying all the herbal plants that will cause them to have abortion. They will seek whatever means because they feel that it is more morally wrong to bring up children whom they will not be able to care for, to nurse and to feed in order to become truly developed human beings. We have many cases in hospitals of incomplete abortions. According to the records of Philippine General Hospital, Ospital ng Maynila, Jose Reyes Memorial Hospital, Manila Doctors

Hospital, and many of these hospitals, these are not women who are of the middle class and the educated type; they are women who really suffer and these are the practical issues they have to deal with.

MR. OPLE. Madam President, will Commissioner Quesada, and maybe Commissioner Villegas, eventually yield to just one or two questions?

MS. QUESADA. Gladly, Madam President.

MR. OPLE. I am glad that Commissioner Quesada has raised from concrete experience some profound observations on this issue of the right of the unborn child.

I have a very imperfect recollection of the American Supreme Court decision that Commissioner Villegas has put forward time and again. But I think in the case of *Roe v. Wade,* we had a shopgirl who was the victim of gang rape. Is that correct?

MR. VILLEGAS. I am not very sure about the circumstances, Madam President.

MR. OPLE. Yes. And in the case of the U.S. Supreme Court which discriminates very strongly on cases, it would accept for jurisdiction that the luck of this girl who was a victim of gang rape actually was remarkable. In a docket already heavy with so many cases, and out of thousands of cases brought before the Supreme Court for adjudication, this was chosen by the Supreme Court. And in this case, I think Commissioner Quesada is right. I read a portion of this decision. It described the anguish of the mother who was a gang rape victim. It happened in a small town where the culture is very censorious about this sort of thing so that the girl was actually at the point of becoming a social outcast. That was what impelled her in the first place – to avoid the fate of being a social outcast in a small community – to seek the help of the Supreme Court.

Since Commissioner Quesada has spoken from experience of many cases of such women wronged by society in terms of having been exploited and abused as victims of gang rape, will the committee now respond frontally to this argument and tell us whether they still believe that the mother, in this case, should not be autonomous and should be subject to a constitutional restraint on her right to live her own life according to her best likes? Should the Constitution interpose itself between this mother – and there might be thousands of them – so that she is denied the right to a life of peace and serenity and her own pursuit of happiness because there is a constitutional provision that prevents her from correcting or rectifying a socially imposed wrong that had been committed against her?

Thank you, Madam President.

MR. VILLEGAS. I can just repeat the transcendental reasons that a wrong cannot be righted by another wrong; a very good end never, never justifies an immoral means. I am very glad that the Gentleman brought up the circumstances of the *Roe v. Wade* case. It was precisely because of this argument about compassion to the woman, a hard-cased situation, that this specific decision of the U.S. Supreme Court opened two million abortions every year in the U.S. That is exactly the trap that we want to avoid – using all sorts of feelings, compassion, emotions. There are many other ways of taking care of a multiple rape victim other than taking the life of an innocent child and not going through the due process of law. As I said, that poor child had absolutely nothing to do with the people who were responsible for victimizing the lady. Why blame the child? His only fault is that he is unwanted by the poor victim, the woman.

So let us look for many other ways of giving guidance and counselling, of taking that woman out of that parochial setting, of using orders like the Order of the Good Shepherds. There are so many possible ways. Let us exhaust all the possible humane ways of helping that agonizing woman, and I am not in any way belittling the agony of the woman. But as I said, we cannot right a wrong by another wrong. That is the most transcendental statement that we can quote from St. Thomas Aquinas.

MS. QUESADA. But does not the Gentleman think that he is also denying the woman the equal protection of the law, the due process of law? The Gentleman is giving the due process to the unborn but not to the woman; that is, that she makes a choice.

MR. VILLEGAS. No, Madam President, there is no right to murder. There is absolutely no right to murder and, therefore, that woman has absolutely no right to murder the child.

MS. QUESADA. Madam President, I am not for abortion, but I am just thinking of this possibility where a woman's life, not physical life, is being threatened – I mean her mental and social dimension because we think of life in its totality, not just the physical threat to her survival.

MR. VILLEGAS. But as I said, as a health worker, the Commissioner knows there are so many psychological solutions that can be taken. It is just a matter of looking for alternative solutions.

MR. ABUBAKAR. Madam President, may I take the floor for a few minutes?

THE PRESIDENT. Commissioner Abubakar is recognized.

MR. ABUBAKAR. The proponent of the measure is very eloquent in his expression of defending both the right of the mother, as well as that of the child. In this Constitutional Commission, we perhaps have people who are very well acquainted with the advanced scientific knowledge regarding the very topic we are discussing now.

My only concern is, as science moves forward, as the economy of the nation changes, and as the thinking in religion plays its component part in the setting of all societies, would it not be in the interest of wisdom to coincide the discussion with the progress of the times and science; that we should not insert this in the Constitution and instead let the judgment of our legislature, in accordance with the latest advancements in science, technology, population and economy, decide by legislative act on this particular provision of the right of the mother and the child? Why should we constitutionalize it? To constitutionalize it is to make it difficult for us to reach for any amendment or for any modification that is safe, not only by society but by the economic situation of the country, by the educated and by so many other factors that make a society not only vibrant but even to push forward. Who knows, such a civilization, and history can attest, may even disappear from our society and this earth?

So, instead of constitutionalizing this provision in just simple terms, can we not just leave this to the wisdom of our people when they elect their representatives who will then enact a particular provision affecting this very issue that we are discussing now? I think wisdom dictates that the Members of the Constitutional Commission should not appropriate to themselves the wisdom of settling this issue.

The future is far; we cannot read it. Even the scientists do not know how society would be in 20 or 30 years. Maybe man would live, or even woman would live, for 150 years, depending on how science will progress. But I think we owe it to ourselves not to let this evolve as the nation moves forward. The matter of protecting the life of the unborn should be left to legislation instead of constitutionalizing it in the Constitution. Religion belongs to different sects and economies. We have different classes of society, the rich and the poor. In geography, we have Luzon, Visayas and Mindanao.

We are a people united by our sense of patriotism and history. Would the matter not be in the interest of our future generation? I do not know whether or not we in this Commission will live for 20 years, but the children of tomorrow will live for 100 years. Why impose this in the Constitution? Why not just say in simple words that the unborn are entitled to life and protection and let the future decide 10, 20 or 100 years from now? What is Philippine society? What is the regard of the future concerning the unborn child in the mother's womb?

At this juncture, the President relinquished the Chair to the Honorable Regalado E. Maambong.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Regalado be recognized on the same subject.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Regalado is recognized.

MR. REGALADO. Thank you, Mr. Presiding Officer. Actually, I registered for a more thorough interpellation, but since we are precisely on this particular point, I would like to interject at this posture.

Mr. Presiding Officer, I would like to direct this question to Commissioner Villegas because of a number of telephone calls and letters I received from lawyers, law students and medical practitioners with respect to his position reported in the *Manila Journal,* September 15, 1986 issue. The report says, and I quote:

> Pushing the controversial section is Constitutional Commission Member Bernardo Villegas, a lay Catholic leader. He said that under the present Revised Penal Code, killing the fetus after seven months is penalized as a crime, which is called abortion, but killing of life before seven months is not considered the same as killing human life after seven months.

That sets me back thinking whether or not we are on the right legal or jurisprudential track, because there is nothing under the Revised Penal Code, Articles 256 to 259, which provides that abortion is possible only if the fetus has had an intrauterine life of more than seven months. The only mention about seven months in our laws is in the Civil Code, but that is only for civil law purposes, for civil personality – whether or not such a fetus could be the subject of legal relations. The new Civil Code provision – I think it is obvious to all lawyers here, although there may be some nonlawyers – may also help to point out by combining Articles 40 and 41; it merely says that birth determines personality, and we are talking only of personality.

But a conceived child shall be considered born for all purposes favorable to it, provided it be born completely alive from the time of its complete delivery from the maternal womb. However, if the child had an intrauterine life of less than seven months – and this is the only time we speak of seven months – then it is not considered born if it dies within 24 hours after its separation from the maternal womb. But this is only for purposes of civil personality – whether or not the child or the fetus can be the subject of legal relations, *lapacidad juridica.* It has nothing to do whatsoever with the protection of the fetus because a fetus, regardless of the intrauterine life, if expelled illegally by the act of the mother, maternal grandparents, a third person or even by a doctor, a midwife or a pharmacist, will always be considered abortion under Articles 256 and 259 of the Revised Penal Code.

I also received a series of calls and a few letters regarding what appeared also in that same publication which says, and I quote:

> Finally, abortifacient means of contraception will automatically be rendered illegal and their use criminal. The IUD, the morning-after pill and hormonal injections are

> some examples of abortifacient contraceptives. They are not, strictly speaking, contraceptives since they act after fertilization will have occurred.

My readings of medical jurisprudence, as well as medical books on obstetrics, specifically state that these intrauterine contraceptive devices are actually contraceptives and not abortifacient. Since we are on this topic, I suppose Commissioner Villegas can give us some clarifications on the legal aspects which bother legal practitioners and law students, and the medical aspects which bother some medical practitioners and medical students, considering the number of calls I have been receiving for a clarification of this publication.

MR. VILLEGAS. I thank Commissioner Regalado very much.

As regards the provisions of the Revised Penal Code, we have already heard, and I completely defer to him, the opinions rendered by Commissioner Padilla. I think that journalists extrapolated wrongly some of the statements. Definitely, I did not pretend to be an expert on the legal aspects. That is why we had Commissioner Padilla clarify what are the actual provisions right now in the Revised Penal Code about abortion.

As regards the issue of what types of contraceptive devices are abortifacient, I think it is a question of fact and this can be best left to Congress and the courts to decide on. There have been articles by medical experts which expressed the opinion that some types of IUDs and hormonal injections are actually abortifacient. But I think this is a question best left to the law-implementing agencies and the courts actually deciding on the facts presented whether or not this opinion should be followed.

So I am not, in any way, making a categorical statement that all these contraceptive devices mentioned in that question-and-answer series are abortifacient. I think it is a matter of fact that has to be established.

MR. REGALADO. So for the record and to allay the fears or apprehensions of these medical practitioners, we agree that these different types of intrauterine devices will be determined by Congress on a case-to-case basis whether they are completely contraceptive and, therefore, there is nothing wrong if administered in the womb of the mother or they are abortifacient and, therefore, will be prohibited.

MR. VILLEGAS. Yes, the Commissioner is correct.

MR. REGALADO. I thank the Commissioner very much, Mr. Presiding Officer.

MR. GASCON. Mr. Presiding Officer, I would like to ask a question on that point. Actually that is one of the questions I was going to raise during the period of interpellations but it has been expressed already. The provision, as it is proposed right now, states:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

When it speaks of "from the moment of conception," does this mean when the egg meets the sperm?

MR. VILLEGAS. Yes, the ovum is fertilized by the sperm.

MR. GASCON. Therefore, that does not leave to Congress the right to determine whether certain contraceptives that we know of today are abortifacient or not because it is a fact that some of these so-called contraceptives deter the rooting of the fertilized ovum in the uterus. If fertilization has already occurred, the next process is for the fertilized ovum to travel towards the uterus and to take root. What happens with some contraceptives is that they stop the opportunity for the fertilized ovum to reach the uterus. Therefore, if we take the provision as it is proposed, these so-called contraceptives should be banned.

MR. VILLEGAS. Yes, if that physical fact is established, then that is what we call abortifacient and, therefore, would be unconstitutional and should be banned under this provision.

MR. GASCON. Yes. So my point is that I do not think it is up to Congress to state whether or not these certain contraceptives are abortifacient. Scientifically and based on the provision as it is now proposed, they are already considered abortifacient.

MR. VILLEGAS. That is right. As I said in answer to Commissioner Regalado, it is a question of fact. If it is established by proper science that it is abortifacient, then it can be ruled as unconstitutional.

But as Commissioner Regalado was saying, he may know of specific IUD devices which actually prevent fertilization.

MR. GASCON. Yes, that is another thing. These are contraceptives. Those which prevent fertilization are contraceptives.

MR. VILLEGAS. That is right, Mr. Presiding Officer.

MR. GASCON. Mr. Presiding Officer, in relation to that, how does the Commissioner relate this proposed provision to that provision in the 1973 Constitution which is also proposed in the General Provisions Article as Section 13? It states:

> It shall be the responsibility of the State to adopt population policies most conducive to the national welfare. It shall, however, be the right and duty of parents to determine the number of their children and, in the exercise of this right and duty, they shall not be compelled to use means of birth limitation that shall be against their informed conscience and religious convictions.

I believe this provision as found in the 1973 Constitution led to the development of population control programs, the Population Commission and others which promote certain contraceptives which, if this provision is approved, would therefore be determined as abortifacient. What would, therefore, be the position of the honorable Commissioner with regard to this provision as contained in the 1973 Constitution and as it is proposed now?

MR. VILLEGAS. I thank the Commissioner very much for asking that question. At the appropriate time, I personally, together with other Commissioners, will move for the total deletion of that very unwanted provision in the General Provisions Article. We cannot give the State the role of playing God by telling it to determine what is the optimum level of population.

It has been proved by so many researches that all the expenditures on family planning have been disastrous. They have been going down the drain. As the present Minister of Social Services, Mita Pardo de Tavera, has been saying, we should use all of that money for population welfare and for helping the poor people attain a more humane existence, rather than putting it in the questionable programs of population control.

It has also been shown by economists that the best solution to mass poverty is economic development and social justice. Population control is repudiated as a means towards attaining economic development and social justice.

So I think it is very counterproductive to retain the 1973 provision. I think this provision was in the 1973 Constitution because of a very strong lobby in the seventies composed of foreigners who were very much convinced that Third World countries had to limit their population. As we probably already know, that specific opinion has been repudiated by, among others, President Reagan who, in a conference on population in Mexico, announced the Reagan doctrine on population. The best cure to population problem is economic development and social justice. Automatically, the birth rate will decline as we start developing the country. Mr. Presiding Officer, there are so many evidences that population control is at best a questionable approach to economic development and at worst a tremendous waste of very scarce resources.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Is Commissioner Gascon through?

MR. GASCON. Not yet, Mr. Presiding Officer.

MR. BENGZON. But, Mr. Presiding Officer, the Commissioner just interjected because of that point brought up.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Chair would like to inquire from the Floor Leader what the parliamentary situation is now.

MR. RAMA. Mr. Presiding Officer, there is an important point of information to be given by the chairman of the Steering Committee. I ask that he be recognized.

THE PRESIDING OFFICER (Mr. Maambong). The chairman of the Steering Committee is recognized.

MR. BENGZON. Mr. Presiding Officer, I would just like to put the record in the proper perspective. Yesterday morning, Proposed Resolution No. 545 was read before the body and was referred to the Steering Committee. In the Record of the Commission, it appears that Proposed Resolution No. 545 is now pending with the Steering Committee. However, as everybody knows, there was a caucus of this Commission and the Steering Committee waived its right and jurisdiction over Proposed Resolution No. 545, unanimously without any objection from its members, and threw this matter to the caucus for deliberations. As everyone knows, there was a vote taken and this proposed resolution was defeated in the caucus assembled. However, Mr. Presiding Officer, everything happened merely in the caucus and nothing has been officially recorded in our Journal. Therefore, in behalf of the Steering Committee just so the record would be complete, I would now like to put on record the fact that this matter has been taken up in caucus, that the Steering Committee with the consent of all its members has waived its jurisdiction in favor of the Commission and that it has taken action on this matter. I would like this to be put on record so that at this point in time, this matter is settled and that the Steering Committee is free from any obligation on this Proposed Resolution No. 545.

THE PRESIDING OFFICER (Mr. Maambong). Before the Chair acts on the manifestation of the chairman of the Steering Committee, is it not a fact that on motion of Commissioner Villacorta before, all proceedings in our caucus are on record and they are supposed to be part of the proceedings of this Commission?

MR. BENGZON. Mr. Presiding Officer, all proceedings of caucuses are recorded, but I did not take that to mean that those would form part of the official Journal. I thought we would have a record of the proceedings of our caucuses separate from the record of the official plenary sessions. And since that proposed resolution was read in the official plenary session and officially referred to the Steering Committee, our Journal must, therefore, contain what has happened in the caucus. This is the reason for my manifestation just so the Steering Committee is cleared.

THE PRESIDING OFFICER (Mr. Maambong). Will the Chair, therefore, suggest to the chairman of the Steering Committee that instead of a manifestation, the same be introduced as a motion so that the body can act on that motion.

MR. BENGZON. I so move, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection to the motion of the chairman of the Steering Committee? *(Silence)* The Chair hears none; the motion is approved.

MS. QUESADA. Mr. Presiding Officer, just for a point of clarification. In the past, I remember that when we did have some caucuses, it was really meant to cut down the discussions and to come into some kind of agreement or consensus, but it did not preclude further discussions on the floor. There is a lot of difference between discussing very vital issues in caucus and bringing them forward in plenary sessions. So I would oppose such a procedure where all the issues we discussed are just made part of the record during the caucus and not deliberated on at all in plenary sessions.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The chairman of the Steering Committee is recognized.

MR. BENGZON. I believe that it was agreed upon during the caucus yesterday that after the Steering Committee waived its jurisdiction and threw the whole matter to the Commission, if the decision of the Commission in caucus was to accept the proposed resolution, then it would be thrown to the plenary session for discussion, and if that proposed resolution was defeated, that was going to be the end of it.

That was the agreement in our caucus yesterday. I am just rising to put this matter on record so that the referral to the Steering Committee which was officially recorded in our Journal would not be kept hanging. Of course, in the past we made decisions in caucus and we came to the plenary hall and reenacted, so to speak, our decisions in the caucus.

MS. QUESADA. Are we now, in effect, Mr. Presiding Officer, changing the procedure?

MR. BENGZON. Mr. Presiding Officer, we are not changing the procedure because there was that agreement in the caucus yesterday that if the result of the decision in the caucus were positive, then the resolution would take its normal course, so that this proposed resolution would be calendared. But if the resolution were to be defeated, that was going to be the end of it, unless the body would want to change its mind and rehash the whole thing and discuss it. That is what I understood as the agreement yesterday.

THE PRESIDING OFFICER (Mr. Maambong). The Chair would like to go over the record on whether or not the agreement mentioned by the chairman of the Steering Committee was, in fact, entered into in that caucus yesterday. The Chair would like to know now from Commissioner Quesada whether or not she is questioning the decision made by the Commission in such caucus in order that we can abbreviate the issue.

MS. QUESADA. Mr. Presiding Officer, I said "inquiry," meaning, I would want to know now whether or not this is going to set the precedent to all future caucuses — that we will have the same procedure of agreeing in caucus and that it will just be mainly reported here.

THE PRESIDING OFFICER (Mr. Maambong). The Chair would like to clarify that in previous caucuses that we held, when we try to get the consensus of the body, it was always on the agreement that whatever consensus we enter into will be brought forward in the plenary session. In the caucus yesterday, however, the Chair recalls that the agreement was that the decision that will be reached will bind the Commission.

So I will now repeat the question to Commissioner Quesada on whether or not she is questioning the decision which was reached by the Commission in that caucus.

MS. QUESADA. That is not my intention, Mr. Presiding Officer. I just wanted to know whether or not this is going to set the precedent. I am glad that it only refers to yesterday's caucus.

THE PRESIDING OFFICER (Mr. Maambong). Yes, Commissioner Quesada.

MS. QUESADA. Thank you, Mr. Presiding Officer, for the clarification.

THE PRESIDING OFFICER (Mr. Maambong). Thank you very much, Commissioner Quesada.

The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Bengzon be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Is the Commissioner still speaking as chairman of the Steering Committee?

MR. BENGZON. No, I am now speaking as an ordinary Member of the Commission, Mr. Presiding Officer. I would like to address some questions to Commissioner Villegas.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bengzon may proceed.

MR. BENGZON. I agree with Commissioner Villegas in his explanation of all the issues that have been discussed here and I share his position. I would just like to clarify certain matters. Firstly, and most of all, if this provision is approved, this will not preclude Congress from passing a law that would allow or legalize in certain instances abortion for medical reasons or for reasons as Congress may deem fit such as, for example, if it should appear from researches and data that it would be for the good of the citizens of this country and for their mental and physical well-being. Am I correct, Mr. Presiding Officer?

MR. VILLEGAS. The only possibilities are those situations which we described in which we can apply the principle of double effect – when we have to save the life of the mother through an operation and sacrifice the life of the child or vice versa. But those are the only situations that may be permitted if this specific provision is included in the Constitution.

MR. BENGZON. Does the Commissioner mean that in a situation, as described by Commissioner Quesada earlier, where the mental well-being of the pregnant woman is at issue, such kind of circumstance would not qualify under the law that would be passed by Congress?

MR. VILLEGAS. No, Mr. Presiding Officer, because that would involve a direct killing of the fetus.

MR. BENGZON. I see. And the Commissioner's position, therefore, is that in such a case, there are other remedies and government agencies that would take care of preserving the physical and mental well-being of the person involved?

MR. VILLEGAS. Yes, Mr. Presiding Officer.

MR. BENGZON. It is only for certain medical reasons that Congress would be able to pass laws that would allow abortion.

MR. VILLEGAS. Yes, Mr. Presiding Officer.

MR. BENGZON. Also, I would just like to state that there should be no more debate as to when life begins because even our present laws, the Civil Code of the Philippines and Articles 256 and 259 of the Revised Penal Code, recognize that a fetus has life and is protected by our laws.

Thank you, Mr. Presiding Officer.

MR. VILLEGAS. I thank the Commissioner.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Quesada is recognized.

MS. QUESADA. Mr. Presiding Officer, before we end, will the committee put on record the scope of state support for the life of the mother and the life of the unborn from the moment of conception so that it is not limited to just a very specific period of life – I refer to the range of the maternal and child health consideration – because otherwise it becomes a very limited provision. I would like this to encompass the life of the mother and of the child up to a time that the child will be taken care of by other provisions, like the provisions on the youth, because this is the only provision that would protect the life of the child not only from the moment of conception but up to the time that the other agencies will no longer cover the care for this child. Will the Commissioner enumerate some of these. What are these specific state support for the mother and child?

MR. VILLEGAS. Actually, if it is not going to be a redundance, since there is already a provision in the Bill of Rights that no one shall be deprived of life without due process of law, I would even expand that statement that life should be protected from the moment of conception up to natural death. Actually, that is the most important principle that the pro-life are supporting – that life has to be protected from the moment of conception up to natural death. What are all these possible stages from the moment of conception up to natural death? Some of them are enumerated in the provisions on health: taking care of the working conditions of the pregnant woman, making sure that she is not subjected to all types of hazards that could injure her health and also that of the child and making sure that the appropriate medicine is available.

MS. QUESADA. Could the Commissioner include centers for victims of rape?

MR. VILLEGAS. Yes, definitely. As I said, there are charitable organizations right now, some of which are run by religious orders that take care precisely of pregnant women with unwanted children. They take very specific measures so that these unwed mothers can be taken care of in a very humane way and can actually go through the psychological anguish with the least harm possible.

MS. QUESADA. Could we also include the strengthening of maternal and child health services in the Philippines?

MR. VILLEGAS. Yes, definitely.

MS. QUESADA. I thank the Commissioner, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Regalado be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Regalado is recognized whenever he is ready.

MR. REGALADO. I will continue, Mr. Presiding Officer, my interpellation because I have to put the matter of protection of the unborn child in the proper posture and from the maelstrom of the discussion earlier.

I will go back to some of my interpellations, but first let me start on a general interpellation. I notice that the vice-chairman is not here, but I think the members of the committee can answer the questions.

It has been observed yesterday by Commissioner Rigos that a number of these provisions in the Article on the Declaration of Principles are also repeated in the other articles, like on social justice and national economy and patrimony. Of course, we cannot fault the committee for such seeming duplication because we know that at the time they were deliberating on the Article on the Declaration of Principles, the other committees, like the Committees on the National Economy and Social Justice, were working along the same time frame, so there may not have been any opportunity for coordination. Although I remember during the proceedings on the Article on National Economy and Patrimony when the matter of the same topic having been incorporated in the Article on the Declaration of Principles was mentioned, it was stated by the members of the Committee on the National Economy and Patrimony that there will be a realignment later to see to it that there will be no duplication, and that in the Article on the Declaration of Principles, they will just be stated in a broad form, whereas those in the particular articles will be more specific.

So, I would like to find out from the committee whether or not, based on that understanding during the proceedings, they intend to file a reformulation of the many provisions of the Article on the Declaration of Principles now under discussion, so that they will not be repetitious of those appearing in the specific articles, like on social justice and national economy. I ask because if they do so, we will be willing to cooperate. If they do not do so, I understand a number of Commissioners are prepared to file their corresponding proposed amendments.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. ABUBAKAR. Mr. Presiding Officer, just one question of Commissioner Villegas.

THE PRESIDING OFFICER (Mr. Maambong). The Chair informs that there is a pending question by Commissioner Regalado. Will Commissioner Abubakar please wait for a while because Commissioner Rosario Braid is about to answer it?

MR. ABUBAKAR. I yield, Mr. Presiding Officer.

MS. ROSARIO BRAID. Mr. Presiding Officer, in response to the Commissioner's question, we do realize the limitations under which we work, so there is some amount of repetition but we would entertain amendments. We do wish to retain this essence of the provisions though, but they could be reworded in a more general manner. During the period of amendments, we will entertain the rephrasing of some of these provisions.

MR. REGALADO. So for the benefit of the Commissioners who intend to file omnibus amendments, the position of the committee is that we take the initiative instead of the committee doing the same as outlined in that configuration submitted by the presiding officer as a guide for reformulation.

MS. ROSARIO BRAID. Yes, we will entertain amendments, Mr. Presiding Officer.

MR. REGALADO. I will go to my other point of interpellation.

I have been listening to the exchanges here the other day, and it also spilled over this morning, regarding the status of the military bases agreement. I am a little intrigued by the terminology and the technical terms used in the provision. It was stated that the military bases agreement was null and void *ab initio.*

I hope the Commissioner will help me a little in my historical recollection. If I remember correctly, taking aside the Hare-Hawes-Cutting Law because its preceding provision was not acceptable to the Filipino people, it was already agreed between the executive leadership of the Philippines and the United States that thereafter when Philippine independence shall have already been granted or declared – this was intended to be in 1943 were it not for the war – there would be negotiations between the executive leaderships with respect to the military bases in the Philippines, which they said originally will be used only as refueling stations, and this was pursuant to that agreement under the 1933 Tydings-McDuffie Law. Eventually, there was that negotiation between the President of the United States and, initially, President Osmeña. Is it true they had that negotiation and that the action of President Osmeña was pursuant to a joint resolution of the Philippine Congress?

MR. NOLLEDO. The Commissioner is right, Mr. Presiding Officer.

MR. REGALADO. And because of the change of leadership, the military bases agreement was signed by President Roxas as the signatory for the Philippines.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment, Commissioner Regalado. Will the committee members please indicate their answer verbally because we cannot record the nodding of their heads?

MR. NOLLEDO. The question was not yet complete, Mr. Presiding Officer. The Commissioner should have waited for our answer.

Yes, the Commissioner is correct, Mr. Presiding Officer.

MR. REGALADO. And despite the fact that Congress had already made a prior authority in its joint resolution, that very same military bases agreement was, nevertheless, still submitted to the Senate for ratification, resulting, if I recall correctly, in a vote of 18 in favor and none against because the Senators were absent. So it was so ratified, although it was not actually necessary. Is that correct?

MR. GARCIA. The reason why the treaty or the agreement is null and void *ab initio* is that it is a violation.

MR. REGALADO. No, my question, Mr. Presiding Officer, is: Is it correct that it was submitted to the Senate and the Senate ratified it by a vote of 18 in favor and none against because three Senators were absent?

MR. GARCIA. Yes, that is correct.

MR. REGALADO. And that was so entered into by the executive and the legislative leadership representing the Filipino people?

MR. GARCIA. It was initially an executive agreement, but only after the executive agreement had been made was it then passed on to the legislature which decided to honor it by virtue of Resolution No. 4 approved on July 28, 1945. The whole process was an initiative, in fact, by the Congress of the United States.

MR. REGALADO. We are informed that the United States never ratified that so-called agreement so much so that insofar as the United States is concerned, it is an executive agreement but insofar as the Philippines is concerned, it is a treaty. Is that a correct statement?

MR. GARCIA. It is correct.

MR. NOLLEDO. That is the anomalous situation, Mr. Presiding Officer.

MR. REGALADO. Having been entered into by the recognized, established and elected executive and legislative leadership, would not such an official action be binding upon the Filipino people?

MR. GARCIA. First of all, let me state why it is null and void *ab initio*. The Philippine Independence Act, by virtue of Ordinance No. 1, Section 3, specifically states in Section 10 of the Tydings-McDuffie Law, which was appended to the 1935 Constitution, that no military bases should be established. It says reservations and refuelling stations only, and that, in fact, is a violation. Whatever agreement was reached between the executive leadership and the United States was in violation of that precise section. Furthermore, the privilege was only for two years after the grant of independence. If they had wanted a constitutional amendment, this should have been submitted to the people for ratification, which was never done. That is the historical aberration, Mr. Presiding Officer.

MR. REGALADO. Is it the position, therefore, of the committee that it should have been submitted to the people for ratification?

MR. GARCIA. Exactly, Mr. Presiding Officer.

MR. REGALADO. Under what specific rule would that have been required?

MR. GARCIA. Under the specific rule that any constitutional amendment must be submitted to the people for their approval, which was never done.

MR. REGALADO. Was that expressed or implied in the 1935 Constitution which was then the one in force?

MR. GARCIA. This was precisely expressed in the 1935 Constitution. In 1939, when there were minor changes in the Constitution, there was, in fact, a plebiscite called for that purpose. Therefore, this was a very important exercise of territorial integrity and sovereignty which should have been submitted to the people for ratification.

MR. REGALADO. With that anomaly or constitutional aberration that the Commissioner has referred to, was not the Philippine government, therefore, in a position to make a unilateral renunciation or abrogation of the treaty?

MR. GARCIA. A Philippine government sovereign, and not subservient, would have done so.

MR. REGALADO. And the Philippine government that we have had, having not done so, was in the Commissioner's opinion not independent but was subservient?

MR. GARCIA. Unfortunately, our history shows that very often we have been subject to pressures from powers that are far beyond our capacity to challenge. Because of our long colonial history, economic weakness and other factors, we have been unable to stand our ground and state specifically our sovereign nature.

MR. REGALADO. Insofar as the categorization is concerned, I recall that the statement yesterday was that the military bases agreement was not *de jure* but *de facto*.

MR. GARCIA. These military bases exist *de facto* but the agreement is null and void *ab initio;* it is not valid. Therefore, if any new treaty must be contracted between two parties, it must be under the terms and conditions similar to Britain, Spain, Turkey and Greece. Why? Are they not also sovereign nations because they have bases? Precisely, in the case of the Philippines, it is different. It was more of a colonial imposition while in the case of the other nations, it was a surrender of part of their territory willingly as a sovereign nation. That is the difference, the very big difference, that we must, I believe, perceive in this issue.

MR. REGALADO. The military bases agreement, I understand, was signed and ratified in 1947. Am I correct?

MR. GARCIA. The Commissioner is correct, Mr. Presiding Officer.

MR. REGALADO. And we were supposed to have achieved independence in 1946; and by 1947, were we not an independent republic?

MR. GARCIA. That is correct, but precisely this is a violation of the Constitution and we cannot simply disregard this. The precise submission for approval by the people in a plebiscite should have been made and because it was not made, we cannot simply rectify this by any agreement. That is why we are saying that this should not be allowed under any presidential or any kind of administration. This must be a declaration of principle.

MR. REGALADO. As stated yesterday, we, therefore, have a *de facto* and not a *de jure* military bases agreement. My question is: Is there any parallelism or any precedent in public international law where there can be such thing as a *de facto* treaty, executive agreement or *entente* aside from what we are supposed to have now?

MR. NOLLEDO. Unfortunately, we are in that situation. But it does not mean that just because no such kind of agreement exists in other countries, we have to nullify our statement that there was an agreement, which is *de facto* in nature.

MR. REGALADO. No, because our confusion here stems from the use of the terms. If it is an agreement which is null and void *ab initio,* we know that the phrase *"ab initio,"* from the very beginning, connotes that there was never such a treaty. In other words, the treaty is nonexistent from the very beginning. There is no treaty to speak of whatsoever. There is, therefore, nothing to abrogate. There is nothing to renegotiate. But, on the other hand, while we say that it is null and void *ab initio* and, therefore, nonexistent from the very beginning, we are also talking here about renegotiation. We are having a referendum until the agreement expires in 1992 under a theory of a *de facto* military bases agreement, wherein I cannot find any precedent in public international law. Perhaps, it is either my mental equipment that is defective or the books that I am reading do not have such a provision. But I cannot find one to go into the concept of a *de facto* international *concordat* or *entente.*

So what should be the proper term to use, Mr. Presiding Officer?

MR. NOLLEDO. Mr. Presiding Officer, we insist that it is null and void from the very beginning, but we cannot go against the reality that the American bases are here and that there exists such an agreement. The fact that we say "null and void" does not mean that the agreement does not exist at all. It exists but we categorize it from the legal point of view as null and void. I repeat: The American bases exist. We cannot go against the reality; we consider them existing in fact but not valid.

MR. REGALADO. From the legal standpoint, therefore, the treaty does not exist; but from the *de facto* standpoint, the bases, not the treaty, exist.

MR. GARCIA. Yes, the bases exist.

MR. NOLLEDO. But there is a treaty. We know the provisions.

MR. REGALADO. Then why do we call it null and void *ab initio?*

MR. NOLLEDO. Yes, otherwise, there is nothing to call null and void *ab initio,* if there exists no treaty. That is a fact.

MR. REGALADO. In law, if it is null and void, is there an existing treaty?

MR. NOLLEDO. One does not use "null and void" if there is no contract or agreement. We recognize the existence of the agreement. We know the one-sided provisions of the agreement so we classify it as null and void.

MR. REGALADO. So where are we now, Mr. Presiding Officer? Is it null and void *ab initio,* nonexistent from the very beginning? Or would the Commissioner say it is voidable, so much so that it exists and is still capable of clarification?

MR. NOLLEDO. No, Mr. Presiding Officer. When we say "voidable," it is valid, but subject to annulment by a competent court. There exists an agreement here, but we classify it as null and void; otherwise, we should not apply the principle of nullity, if there is no such agreement.

MR. REGALADO. That is what bothers me because if it is null and void and nonexistent from the very beginning, then we can just disregard any mention of it in the Constitution. There is nothing to nullify and renegotiate because it does not exist in the law. It will not terminate in 1991 because it never had any existence from the very beginning. So we are back again to the tyranny of terminologies. How do we classify that, Mr. Presiding Officer?

MR. NOLLEDO. As I told the Commissioner, because of the existence of the American bases, we cannot go against reality. We have to realize that the United States of America, through the bases, is functioning in the Philippines.

MR. REGALADO. Yes, insofar as reality is concerned. We do not deny that fact.

MR. NOLLEDO. And we will have to meet that situation head on by stating that we are adopting the principle of neutrality.

MR. REGALADO. We do not deny that there are bases in Angeles and Subic. That is a reality. But my question is: From the legal standpoint, since we are framing these things in a constitution and the constitution is a legal document, that agreement is a legal compact between the Filipino people and the sovereign authorities. And insofar as this bases agreement is concerned, it is also a legal instrument, not only *inter se* but also *ex allunde* because it refers to our international relations. Therefore, we are trying to view this from the legal standpoint, both from the standpoint of municipal law and from the standpoint of international law. Our problem here is how we would categorize this. Do we have a military bases agreement? Do we say it is null and void *ab initio,* therefore, legally nonexistent from the very beginning? Or do I misread the phrase *"ab initio"*?

MR. GARCIA. Let me put it very clearly, Mr. Presiding Officer.

MR. REGALADO. Yes, please teach me how to find my way through this welter of technical terms because I am a little confused.

MR. GARCIA. I realize that it is a unique animal in the zoo, but put very simply it is this: 1) The military bases agreement is a violation of the 1935 Constitution and that must be stated clearly; 2) Even the United States government perceives this as an executive agreement not as a treaty. In fact, that is the reason why they are not paying rent but giving assistance or aid; 3) The committee's position precisely is this: Because this is a *de facto* situation although the agreement is null and void, we allow, therefore, the agreement to expire in 1991 after which – this is a committee accommodation – if there is a new treaty, it must be under different conditions. It must be concurred in by the Philippine Senate, ratified by the people in a plebiscite determined for that purpose and later on also ratified by the Senate or Congress of the concurring party. In other words, it will be a new treaty. The old one will simply lapse.

MR. REGALADO. Yes, that is for the future. We are not talking about the future. That will be completely a new treaty. We are talking about the one under discussion.

MR. GARCIA. The committee's stand is that this agreement must be made to lapse in 1991 and should not be renewed.

MR. REGALADO. If the treaty is nonexistent from the very beginning, what is there to expire in 1991?

MR. GARCIA. The agreement, which from our point of view is null and void, is very similar to a situation in Guantanamo, Cuba. The sovereign government is not willing to have bases, and yet the other party contended the validity of their agreement with Cuba on the ground that the term was indefinite and, therefore, they are staying in Guantanamo, without the host country having to determine.

MR. REGALADO. In other words, as a concept of public international law, this Commission is willing to accept that there is such a thing as a *de facto* international agreement.

MR. GARCIA. This was brought about by force of circumstances, the colonial history of this country and its inability, due to economic, political and military weaknesses to correct a historical error. The only solution I can think of, if the government wishes to do so, would be to bring this to the International Court of Justice at The Hague.

THE PRESIDING OFFICER (Mr. Maambong). May the Chair interrupt? The Chair would like to know from the Floor Leader whether it is the decision of the floor that we should starve because it is already 12:34.

SUSPENSION OF SESSION

MR. RAMA. Mr. Presiding Officer, I move that we suspend the session until two-thirty in the afternoon.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection? *(Silence)* The Chair hears none; the session is suspended until two-thirty in the afternoon.

It was 12:34 p.m.

RESUMPTION OF SESSION

At 3:02 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, we now resume the consideration of the Article on the Declaration of Principles. I ask the chairman and the members of the committee to take their seats.

THE PRESIDING OFFICER (Mr. Maambong). The chairman and the members of the committee are advised to take the front seats.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Bacani be recognized to interpellate.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani is recognized.

BISHOP BACANI. Thank you, Mr. Presiding Officer.

May I ask Commissioner Nolledo regarding Section 1 which states that the Philippines is a republican and democractic State. Did I get it right yesterday that this is a declaration of principle that rejects communism for the Filipino people?

MR. NOLLEDO. I said the term "democratic state" is not understood as it is understood in the lingo of a socialist or communist country. And when we talk of republicanism, it by itself rejects communism because we have regular elections and a Bill of Rights under a republican government.

BISHOP BACANI. So when we combine the two together, this comes out as a declaration of principles that is tantamount to a rejection of communism for the Filipino people?

MR. NOLLEDO. Yes, Mr. Presiding Officer. That is my personal opinion. I do not bind the other members of the committee.

BISHOP BACANI. I thank the Commissioner very much, Mr. Presiding Officer.

Let me go to Section 3. There was a long argument yesterday regarding the validity or invalidity of the agreement because of the vitiating circumstances which, according to the Commissioner, rendered the treaty or executive agreement null and void *ab initio.*

MR. NOLLEDO. I would like to correct the Commissioner with respect to the use of "vitiating circumstances." From the legal point of view, when the Commissioner talks of "vitiating circumstances," he talks of a vitiated consent because I am talking of unconstitutionality or illegality here. It is contrary to the Tydings-McDuffie Law which was made part and parcel of the 1935 Constitution. I said that Resolution No. 93 was a unilateral declaration on the part of the United States of America under which the RP-US Bases Agreement was entered into. So, "vitiating circumstances" may refer to the circumstances under which the treaty was entered into. But, in addition to that, there was a violation of the Constitution.

BISHOP BACANI. Yes, but I was wondering, being a nonlawyer, whether there cannot be a consent from the silent majority who seem to have acquiesced to this treaty or executive agreement. We will remember that it was Commissioner Romulo who quoted that in the 11 regions where the UP Law Center held public hearings, there was a unanimous desire for a retention of the bases.

In a survey conducted for Metro Manila and which was published in one of the newspapers, 67 percent of the people opted for the retention of the bases. In my own little parish in Paco, when I asked for a show of hands, without preliminary explanations either way, whether the matter of the retention or removal of the bases from the Philippines be made part of the constitutional provision, more than two-thirds voted that such matter not be placed in the Constitution.

MR. NOLLEDO. With respect to our consultations—I do not know with respect to the consultations of other Commissioners – I think the people are in favor of retaining the bases up to 1991. Besides the Filipino people do not know all the ins and outs of these bases. To tell the Commissioner frankly, as a lawyer, I made my researches here and I found out that there was really a legal defect. Before, I thought it was a valid treaty. I even labored under the mistaken impression that it was ratified by the U.S. Senate. I think if all these circumstances are mentioned before the people, we might get another result. Even before we voted on this question in the committee, I was also in favor of the retention of the American bases, but my research convinced me that there is something wrong with the retention of these bases. I have to compromise and follow the will of the majority that the bases can be retained only up to 1991.

BISHOP BACANI. Yes. But what I mean is that given the state of knowledge of the people, all these times majority of them seem to have acquiesced to the retention of these bases and there has not been a strong demonstration of the will of the majority that the foreign bases be not allowed any more beyond 1991.

MR. NOLLEDO. Mr. Presiding Officer, in law, acquiescence is valid only if all the facts are laid down on the table and all the arguments, pros and cons, are apprehended or comprehended by the people. So we cannot readily conclude that there is really implied consent on the part of the people until all facts are known to them – the advantages and disadvantages, pros and cons widely discussed. While many leaders of the country are against the bases, like J.B.L. Reyes and Senator Tañada, I think they have not articulated enough before the people the disadvantages of the existence of these bases in the country.

I think I can agree with the Commissioner that the people are correct in impliedly consenting, if all the facts are known and all the arguments are articulated before them. So it must be an intelligent consent, whether expressed or implied, that will result in acquiescence.

BISHOP BACANI. May I now move on to something cognate. I heard Commissioner Garcia say twice this morning, and it seems to me to be a change in the committee's position, that if he represents the committee's position he would be for allowing this treaty or executive agreement to lapse and enter into a new agreement which will then be submitted for ratification by the people. This does not seem to be what is said here in the last section, "PORTION FOR INCLUSION IN TRANSITORY PROVISION," which states:

> Upon the expiration of the RP-US bases agreement in 1991, foreign military bases, troops and facilities, shall no longer be allowed in any part of the Philippine territory.

Am I right in conceiving that as a retreat in the position of the committee?

MR. GARCIA. Let me explain that, Mr. Presiding Officer.

The committee's position is that we will respect until 1991 the existence of the military bases. If and when – this is hypothetical – there is going to be a new treaty to negotiate the existence of foreign military bases, it must be under certain conditions, one of which is a referendum, whereby we will get the approval of the entire Filipino nation.

BISHOP BACANI. Combining the provisions of Section 3 and the "PORTION FOR INCLUSION IN THE TRANSITORY PROVISION," that does not seem to be what the Commissioner is asking for.

MR. GARCIA. Exactly, what I am trying to say is that the committee's position is that there will be no foreign military bases after 1991.

But if and when – and I am saying this is hypothetical because that was the way the question was formulated – there are going to be new negotiations, there will be a need for a new treaty with certain conditions, and that is what I formulated earlier this morning.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment. Committee member de Castro would like to interject something:

MR. DE CASTRO. Yes, thank you, Mr. Presiding Officer.

I am only correcting the words "the committee view." I request that it should be "the majority view of the committee," but not the whole committee.

MR. GARCIA. We agree.

MR. NOLLEDO. We agree.

MR. DE CASTRO. I would like to put that on record, because it is not the whole consensus of the committee.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani may proceed.

BISHOP BACANI. Mr. Presiding Officer, I was under the impression that the Commissioner wanted a constitutional stop to all foreign military bases in the country after 1991. Am I correct?

MR. GARCIA. That is correct. In Section 3, in fact, that is what the committee report suggests.

BISHOP BACANI. Yes. However, what the Commissioner is saying now is that he is amenable to having a renegotiation after 1991 and the result of that will be submitted to a plebiscite. So I think that is different, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, the Commissioner will find out that there was a premise laid down by the Honorable Teodulo Natividad. His opinion, it seems to me, is that the question on the bases should be submitted to the people for ratification. But we claimed that there is nothing to submit for ratification because the military bases agreement is null and void, and if it were a treaty and submitted to the people for ratification say, later on, assuming we did not win in our committee report, then we will submit that there is no derogation of sovereignty. It was stated by Commissioner Garcia in a hypothetical manner, without necessarily abandoning the recommendation of the committee.

BISHOP BACANI. That is why I am asking Commissioner Garcia whether or not that is the position of the majority members of the committee – that after 1991, the Philippine government can negotiate a treaty on the bases with the U.S. government and then submit the result of that negotiation to the people for ratification.

MR. GARCIA. Once the present agreement lapses in 1991, if and when the Philippine government decides to enter into a new treaty, we could discuss this and find out what the terms are under which such a treaty could be negotiated, one of which is submission to the Filipino people for ratification which is very important.

BISHOP BACANI. If Section 3, as it is proposed, is approved, that would not mean that the Philippine government is forbidden to initiate or enter into negotiations with the U.S. government on the question of bases. Am I correct?

MR. GARCIA. If this Section 3 is approved, we cannot enter into such a treaty.

BISHOP BACANI. That is what I was trying to get from the Commissioner because his position, as he stated it this morning, is contradictory to that.

MR. GARCIA. That is why I was saying we have to reformulate; that it was a hypothetical answer to such a question. This is just in case of a new treaty, not necessarily following this section, because in this section, we definitely do not want a renewal or an extension of the military bases agreement.

MR. NOLLEDO. Mr. Presiding Officer, I would like to tell the Commissioner in advance that there is a proposed amendment by Commissioner Bernas allowing the Philippine government to enter into a treaty with any foreign power for the maintenance of bases in the country, subject to certain conditions. The committee will entertain that amendment. We can discuss with the Members of the Commission later.

BISHOP BACANI. I am glad for that information, because that seems to be a less inflexible position than that of the committee.

MR. NOLLEDO. We always submit to the will of the Commission, Mr. Presiding Officer.

BISHOP BACANI. I thank the Commissioner very much, Mr. Presiding Officer.

Let me go to Section 4 which is about the Philippines being a nuclear-free country. I am a supporter of this particular provision. I must confess that from ethical and religious convictions, I second the arguments.

I would just like to cite, in support of this provision, what the Second Vatican Council said. In dealing with the arms race, the Council Parish in 1965 – this was 20 years ago when nuclear arms were not even as well developed as they are now – said, and I quote:

> Rather than eliminate the causes of war, the arms race serves only to aggravate the situation. As long as extravagant sums of money are poured into the development of new weapons, it is impossible to devote adequate aid in tackling the mystery which prevails at present in the world. Instead of eradicating international conflict once and for all, the contagion is spreading to other parts of the world.
>
> New approaches based on reformed attitudes will have to be chosen in order to remove the stumbling block to free the earth from its present anxieties and give back to the world a genuine peace. Therefore, we declare once again that arms race is one of the greatest curses on the human race and the harm it inflicts on the poor is more than can be endured. There is every reason to fear that if it continues it will bring forth those lethal disasters which are already in preparation.

So I would like to put that on record in support of this committee provision as explained especially by Commissioner Azcuna as a matter of principle which may allow exceptions here and there.

MR. NOLLEDO. As I see it, the Commissioner echoes the reasons of the Bishops Conference of the United States in 1985.

BISHOP BACANI. Yes, Mr. Presiding Officer.

Let me go to Section 5 which states:

> The State values the dignity of the human person, guarantees full respect for human rights . . .

So the State shall guarantee full respect for human rights at any stage of a person's development?

MR. NOLLEDO. As far as I am concerned, as proponent of this provision, that concept is included.

BISHOP BACANI. I thank the Commissioner very much. I am glad that that is included.

Let me go to Section 7. Will the Commissioner be amenable to an amendment because I find these enumerations rather restricting? I have learned of the legal adage that to enumerate is to limit. Is that the interpretation in law? I ask because in philosophy, when we enumerate but do not exclude, we do not necessarily exclude.

MR. NOLLEDO. Is the Commissioner referring to *inclusio unios est exclusio alterius?*

BISHOP BACANI. Yes. We speak here of the establishment of a "socio-political and economic system" as the prime concern of the State. Will the Commissioner be amenable to changing that later to "DYNAMIC SOCIAL ORDER"? "Socio-political and economic system" may be a little too restricting. Culture, for example, is not explicitly included.

MR. NOLLEDO. We will consider that seriously, Mr. Presiding Officer. I think the Commissioner has a good point there.

BISHOP BACANI. I thank the Commissioner very much. And perhaps later on, we will shorten the other part of the provision.

May I now go to Section 9. I would like to ask Commissioner Villegas. First, would I be right in saying that the aim of Section 9 is for the State to equally protect the life of the mother and the life of the unborn from the moment of conception? I will concentrate only on the life of the unborn from the moment of conception but recognizing the very important part that the first part plays, which seems to be noncontroversial at present and admitted by all. Mr. Presiding Officer, am I correct in thinking that this particular sentence is meant to be a constitutional shield against the abolition of our present abortion laws?

MR. VILLEGAS. The intention, Mr. Presiding Officer, is to make sure that there will be no pro-abortion laws ever passed by Congress or any pro-abortion decision passed by the Supreme Court.

BISHOP BACANI. Is it the intention of this provision to make sure, especially because of the abortion that is already happening in the United States, that abortion shall be forbidden or forestalled?

MR. VILLEGAS. Yes, Mr. Presiding Officer. That is the ultimate evil that has to be completely forestalled.

BISHOP BACANI. Is it further the intention or the necessary implication of this that viability is not going to be the rule in the determination of the existence of human life?

MR. VILLEGAS. It will not be the rule, Mr. Presiding Officer.

BISHOP BACANI. I thank the Commissioner very much. May I, at this point, interject some comments in response to some questions this morning which are also in support of this particular sentence. I consider this very important because the question has been raised as to when human life begins. Actually, I believe that if we say, "The State shall protect the life of the unborn from the moment of conception," we can allow Congress to determine when conception begins. But they will have to ask the doctors when conception begins, and I am afraid it will not be such an exciting search for them anymore because they will find the answer rather easily. Mr. Presiding Officer, among those that I wanted to quote this morning is Dr. Lily, who is called the Father of Fetology. By the way, there is now fetology so that the fetus is now considered a human patient and not an animal, which is an interesting development. I would like to quote him partly:

> Seven days after fertilization, the young individual in command of his environment and destiny, with a tenacious purpose, implants in the spongy lining and, with a display of physiological power, suppresses his mother's menstrual period. This is his home for the next 270 days and, to make it habitable, the embryo develops a placenta and a protective capsule of fluid for himself. He also solves singlehandedly the homograft problem, that dazzling beat by which fetus and mother, although immunological foreigners who could not exchange skin grafts nor safely receive blood from each other, nevertheless, tolerate each other in parabiosis for nine months. We know that he moves with a delightful easy grace in his bouyant world that fetal comfort determines fetal position. He is responsive to pain, touch, cold, sound and light. He drinks his amniotic fluid more if it is artificially sweetened, less if it is given an unpleasant taste. He gets hiccups and sucks his thumbs. He wakes and sleeps. He gets bored with repetitive signals but can be taught to be alerted by a first signal or a different one. And finally, he determines his birthday, for unquestionably the onset of labor is a unilateral decision of the fetus. This then is the fetus we know. This is the fetus we look after in modern obstetrics, the same body we are caring for before and after birth who before birth can be killed in diagnosis and treatment just like any other patient.

The Commissioner is defending this sentence. He is described as a Catholic leader. Is this a Catholic position?

MR. VILLEGAS. Definitely but not exclusively, Mr. Presiding Officer. Actually, in the sponsorship speech, I made it very clear that even before Christianity came to this country, our ancestors already considered the baby in the womb of the mother as a human being by the use of the word "nagdadalangtao," and our Muslim brothers here have exactly the same opinion. And there are doctors who are not Christians who confirm the fact that human life begins at the moment of conception.

BISHOP BACANI. Yes. Also, I would like to confirm that all orthodox Jews, Islam, Buddhism and Hinduism reject abortion. May I name some big names among Protestants who adhere to the same opinions: Karl Barth, perhaps the greatest Protestant, not only Protestant theologian of the century; Deitrick Bonhoffer, martyred under Hitler; Professors Otto Piper of Princeton and Helmut Thielicke, a Lutheran professor of religion at the University of Hamburg.

So I would like to concur with that and support that as a statement of fact.

Thank you very much, Mr. Presiding Officer.

MR. ABUBAKAR. Mr. Presiding Officer, may I interpellate the speaker.

THE PRESIDING OFFICER (Mr. Maambong). Before anything else and before the Chair recognizes the Floor Leader, in the spirit of liberality of our Rules, the Chair would now like to acknowledge the presence of high school students from the Western Philippine Colleges. The Chair is hopeful that they will benefit from our discussions of the Article on the Declaration of Principles and State Policies.

The Floor Leader is recognized.

MR. RAMA. With the indulgence of Commissioner Abubakar, there are about seven interpellators here. They have been waiting for their turn to speak.

I ask that Commissioner Villacorta be recognized.

MR. ABUBAKAR. Am I to speak, Mr. Floor Leader?

MR. RAMA. Commissioner Uka has just said he will have two words.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Uka is recognized.

MR. UKA. Mr. Presiding Officer, as a Muslim, I am against abortion in any form. It is against the law of Almighty God, as expressed in the Talmud, the Holy Bible, and the Holy Qur'an. The fertilized ovum or conceived child is already a human being, a very young human being in the first stage of life, created through the power of Almighty God. Abortion is pure and simple murder, and this is against one of the Ten Commandments of God which says, "Thou shalt not kill." Whether we are Jews, Christians or Muslims, we must follow this law. Let us not murder the innocent conceived child. Jesus said in the Holy Bible: "Suffer little children, and forbid them not to come unto me: for of such is the Kingdom of heaven." Let us follow what Jesus said, because I am sure all of us also want to go to heaven. I repeat, let us not kill our children by aborting them, especially considering that the Philippines is predominantly a Christian country with a sizeable number of Filipino Muslims.

Thank you very much.

MR. VILLEGAS. Thank you.

THE PRESIDING OFFICER (Mr. Maambong). May the Chair ask the Floor Leader if Commissioner Abubakar is scheduled to interpellate the committee so that the Chair can properly recognize him.

MR. RAMA. He is not scheduled, but he has already spoken. So, may I ask that Commissioner Tan be recognized.

MR. ABUBAKAR. This is just an interpellation; I am not going to speak.

MR. RAMA. No, the Commissioner can interpellate after Commissioner Tan. We give preference to the ladies.

MR. ABUBAKAR. I agree.

THE PRESIDING OFFICER (Mr. Maambong). Is that all right, Commissioner Abubakar?

Commissioner Tan is recognized.

SR. TAN. Mr. Presiding Officer, it will only take one minute to say what I have to say. I am against abortion in all stages of conception. But I would entreat the men in this Commission to go slow in making laws for us women, particularly the highest law of the land, on vital, personal and extremely delicate matters of which they have no personal experience. We, women, have suffered enough from the laws made by men. Men will never comprehend the extreme anguish women have to struggle with for years and the nervous and psychological disorders they have to suffer because they sometimes bear, for a lifetime, the burden of guilt caused by this inability to obey the laws made by men due to psychological or material reasons or by their noncompliance of these laws. I feel that a law is written to help us out, to free us and to liberate us. I feel men have no right to consciously or subconsciously write laws which add more burden to women. They may do this only for themselves.

Thank you.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. VILLEGAS. May I just reply to that.

MR. RAMA. May I ask that Commissioner Villegas be recognized.

MR. VILLEGAS. This is just a very short reply. These laws are not being made by men for women. Precisely, the very core of the issue is that there is already another human being in the womb of the woman, so we are making laws for that human being whose life begins at conception. And if the Commissioner is going to take a very feminist approach to it, the chance of that human being, being male, is 50-50 from the statistical point of view. So, this is not a law being made by men to torture women. This is a law which is made precisely to protect the life of an innocent human being who just happens to be captive in the womb of the mother.

SR. TAN. Yes, I understand that. I do not mean to be personal. I am truthfully against abortion. I am just saying that we go slow about writing into the Constitution the right to life.

MR. VILLEGAS. That is the point. If one is against abortion, he will be against the possibility of it ever being legalized. As I have shown enough empirical evidence, the moment one starts appealing to compassion or to feminist views, then we open up the possibility of two million abortions in the country as they did in the United States.

SR. TAN. These are not feminist views. These are human views.

MR. VILLEGAS. Yes.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Abubakar be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Abubakar is recognized.

MR. ABUBAKAR. We have heard arguments from every sector of society – religion, science, commerce and finance – from which each speaker could draw inspiration, whether he is for or against this proviso in the Constitution. We have had several constitutions like the Malolos Constitution and the 1935 Constitution but this proviso never appeared in any of the articles of the past constitutions. I understand that even different governments, from the 14th to the 17th century or even as old as the European continent, have no such proviso in their constitutions or in their common laws. This proviso did not appear in the constitutions of South American countries, the majority of whom are Roman Catholics. There are Protestants as there are Muslims and many other people of different faith. This proviso has elicited salient comments not only from our fellow Commissioners but also from the others. Our own experience dictates and points to us that in all our constitutions, there is no proviso to this effect. We are a divided House not because of differences in religion, financial status or intellectual thinking or approach but because we cling to our own views and conception. As I am saying, I do not care if 60 or 105 countries in this globe do not have provisions on the right of the mother or the child that is conceived. We have no such proviso in our laws.

So, I hope our distinguished colleagues will share my view that we should not provide this concept or belief in the Constitution. If we want to raise this matter, we can always bring it before the legislative body which will be formed after the Constitution is ratified. To put it in the Constitution because it is a belief, it touches religion, and it touches our own free thinking and intellectual conception would provoke a divided House. Regardless of how we put this proviso in the Constitution, regardless of how we vote here, our people individually and collectively would adhere to what they believe is the way for them and the way they think is right. I am sure the proviso will be constantly violated. So, in our wisdom, should we not trust our individual Filipino brothers or sisters who are in the church and let them decide the right moment to bring this child into the world? This may be an unwanted child, but I believe that the right of the unborn from the moment of conception is not an issue between the mother and the child.

I would, therefore, suggest, even if it is out of the ordinary discussion, that this particular proviso be deleted from the Constitution. We love our Constitution; we will fight to defend that Constitution. But with a divided people, that Constitution in a state of promoting unity will divide us regardless of our goal. Each will follow the practice we believe is correct. Therefore, why put a proviso that will cause division, that will not be accepted and make the Constitution a mere scrap of paper to be violated rather than to be observed? We never had this proviso before in our past constitutions. Under our organic law, we have progressed and we are enlightened. So, why put a factor that may not even be accepted by the women of the Philippines? We ourselves doubt its wisdom and practicality.

Thank you.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Villacorta be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Villacorta is recognized.

MR. VILLACORTA. Thank you, Mr. Presiding Officer.

I just have a few clarificatory questions addressed to the committee, if the committee will allow it. This is with respect to Section 9 which states:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

I think the main proponent is Commissioner Villegas. Would this provision contemplate roving teams sponsored by the State to monitor the activities of women to make sure that they do not abort the fetus within their bodies?

MR. VILLEGAS. I do not think that is the idea. We will not have any intrusion into the privacy of any person. I am sure Commissioner Natividad can, if he wants, add information on how specific crimes of abortion are actually proved by the State. But I do not think it is a matter of monitoring.

MR. VILLACORTA. With this mandate that the State shall protect the life of the unborn, would it not be incumbent upon the State, assuming that this is approved, to ensure such a protection by organizing monitoring teams or task forces?

MR. VILLEGAS. That is already in the implementation, but I do not think that would be the intention. It depends on people who have the evidence to report, but I think the Commissioner is bringing it to an extreme. I do not think that is the intention of this specific provision.

MR. VILLACORTA. Realizing that the intention of the committee is that this should not be carried to the extreme, would it not be possible to add the phrase to make sure that an extreme implementation of this duty of the State to protect the life of the unborn will not happen?

MR. VILLEGAS. It may not be necessary because it is precisely incumbent upon Congress and the other divisions of government to be prudent in the implementation of this provision. I do not think the Commission would have to actually tell the people that they should be prudent.

MR. VILLACORTA. Our recent political experience proves that the government can be imprudent and extremist in applying the force of the law. This is one of the fears of those who have reservations or misgivings about this provision. I myself have nothing against protecting the life of the unborn. What I am more worried about is the extreme application of this provision once the State is given the mandate. It depends really, as the Commissioner is implying, on who will implement this provision. If we have a bigot to implement this, then we might be inviting trouble.

MR. VILLEGAS. Yes, but I do not think the Constitution should start making provisions for bigots and tyrants in this specific case. There will be other ways of safeguarding this. There are a lot of articles like the Bill of Rights which talk about the right to privacy. There are just enough safeguards as far as the Commissioner's fears are concerned.

MR. VILLACORTA. We have provisions, not just in this Constitution but in the other constitutions, in which the State has the duty to protect the lives of its citizens.

MR. VILLEGAS. That is right.

MR. VILLACORTA. That is why we have police forces or armed forces. In the same manner, we are giving the State the duty to protect the life of the unborn. So it is only logical that certain monitoring groups be formed by the State in order to protect the life of the unborn. Anyway, the contemplation has been clarified, and perhaps at the proper moment this Representation will propose an amendment.

On Section 10, lines 13 to 15, about the protection of children, this Representation, along with four female Commissioners as well as four male Commissioners, sponsored Resolution No. 355 and the title of that resolution is: "Resolution Providing for the Equality of Women and the Protection of the Rights of Women, Children and the Family." Looking through the list of resolutions that this committee considered, we do not find our Resolution No. 355. However, we are happy to note that our proposed sections giving women equal rights in all fields of life, as well as the right of the family to develop its capabilities, were incorporated in the draft article. There are two provisions which we consider important but were not incorporated in the draft article; for example, the section that says: "Marriage must be founded on the free consent and equality of both spouses." I do not know the member of the committee who is concerned with the rights of women and children. It may be Commissioner Rosario Braid or Commissioner Aquino. We would like to know whether or not this is part of the intendment of the committee's provision. I skipped Section 11; then I will go back to Section 10 with the Commissioner's indulgence.

Section 11 has to do with the role and participation of women in nation building and the right of women to equal protection. In behalf of my cosponsors, I would like to ask this question: Is the provision "Marriage must be founded on the free consent and equality of both spouses" included in the contemplation of Section 11?

MS. ROSARIO BRAID. Since we were concerned with the general principle here, to which the Commissioner can include a phrase, the said resolution has been referred to the section about the family.

MR. VILLACORTA. I see.

MS. ROSARIO BRAID. So, we only considered a very general resolution for inclusion in this Article on the Declaration of Principles.

MR. VILLACORTA. But just the same, since the Commissioner is talking about the right of women to equal protection in all spheres of life, would she still include this principle that marriage is founded on the free consent and equality of both spouses?

MS. ROSARIO BRAID. We will entertain the Commissioner's amendment to this provision during the period of amendments.

MR. VILLACORTA. In other words, at present it is not included in the sense of Section 11 and, therefore, an amendment would have to be introduced?

MS. ROSARIO BRAID. This is very general and we could take it as when we say "equal protection." The Commissioner could include that in the section dealing with family life. If the Commissioner will present his amendment on the family, which will be considered after this article, we will welcome it.

MR. VILLACORTA. Thank you.

MR. NOLLEDO. May I be permitted to ask a question.

What do we mean by "on the free consent and equality between spouses?" The marriage law which is now found in the Supreme Court of the Philippines requires that marriage must be voluntary and free. There is no problem about that. But about the word "equality," I have some reservations. May I be enlightened on what we mean by "equality"?

MR. VILLACORTA. This simply means that in a marital relationship, both the husband and the wife have equal rights in that relationship, it is not a superior-subordinate relationship in which the wife or in some cases the husband will be inferior in status and in rights compared to the other spouse.

MR. NOLLEDO. May I inform the Commissioner that there is a provision in the Civil Code of the Philippines that the father and the mother jointly exercise parental authority over their children. But in case of conflict, it seems to me that the rule is that the decision of the father shall prevail.

Would the Commissioner agree with me, if I say that that provision should not be constitutionalized in the sense that it should be governed by the Civil Code or by the civil law?

MR. VILLACORTA. I cannot speak on behalf of the other sponsors but from my point of view, if that Civil Code provision will be retained, then it will go against the principle that women should enjoy equal rights with respect to men in all spheres of economic, political, civil, social and cultural life including family life. I am quoting from Section 11 of the draft article.

MR. NOLLEDO. I think Section 11 will cover the word "equality." If we talk of "consent," that is unnecessary. It should not be placed in the Constitution anymore because all marriage laws in civilized countries require consent before marriage is celebrated.

MR. VILLACORTA. Thank you for explaining that. But what we really mean when we speak of "equality of both spouses" is not just the consent but the maintenance of equal status between the two partners in marriage throughout the marital life. Therefore, what the Commissioner quoted from the Civil Code – that the father has precedence over the mother in parental authority – would probably go against the provision in Section 11.

MR. NOLLEDO. What I mean is that when we talk of social and cultural life, then we are embodying the spirit of the Commissioner's resolution with respect to equality. As far as equality between husband and wife is concerned, in case of conflict, how can we resolve the conflict? We have to go to court. So, the provision that the decision of the husband should prevail is, more or less, designed to preserve harmony in the family because if we let either party go to court, then they will be fighting each other and there might be friction in the family.

MR. VILLACORTA. I think a case involving conflict between two human beings should not be decided on the basis of gender or a hierarchy of priority. In other words, if there is a conflict between husband and wife, the case should be decided on the merits of the case – who committed the wrongdoing – and not on the basis of who is the woman and who is the man. I think this is the intendment of Section 11 and, therefore, am I correct in interpreting Section 11 as leading to the repeal of that particular provision in the Civil Code and in other marriage laws that are discriminatory to women?

MR. NOLLEDO. I would agree with the Commissioner.

MR. VILLACORTA. Is that the sense of the committee? Is the committee unanimous on that?

MR. NOLLEDO. I cannot bind the committee but that is my personal opinion.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). With the indulgence of the two Gentlemen on the floor, the Chair recognizes Commissioner Aquino to help in the debate. Maybe it will take a woman to solve the problem.

MR. VILLACORTA. No, Mr. Presiding Officer, I am answering on behalf of the committee.

THE PRESIDING OFFICER (Mr. Maambong). The Commissioner may proceed.

MS. AQUINO. The intention in Section 11 is to provide for a self-implementing provision that would itself repeal all discriminatory and antifeminist laws in the Civil Code and the Revised Penal Code. We made a research on the laws in the Civil Code and in the Revised Penal Code. For example, discrimination would amount to an imbalance in parental authority, discretion in the matter of family rights and the imbalance in the management of the conjugal partnership of gains. On the matter of political rights, by way of linguistic limitation or maybe by habitual assumption that the female gender is already included in the person or in the reference to a "he," it cannot be disputed that the major fields of politics, economy, culture and social sciences are firmly controlled by men. Therefore, with the passing of this provision, it is our intention that all these laws shall be considered repealed. We do not ask for absolute equality or sameness. Even the law would recognize that sex provides a justifiable and valid classification; that is, in the context of the equal protection of the law clause. But what we want is for us to rid ourselves of the very comfortable notion that women are just to be protected in a pedestal, since we have always considered them to be belonging to a pedestal. The law has done very little except to perpetuate the myth that women are helpless and, therefore, should be put on a pedestal. The fact is, the pedestal is a cage, constricted by social systems and hemmed in by archaic and antifeminist laws. In the same vein that Commissioner Nolledo would mention the law on joint parental authority, there is also a provision in the Civil Code which says in Article 117 that a husband may object to his wife's exercise of a profession or occupation or her engaging in business, if his income is sufficient. There is also a provision in the Civil Code, which has been echoed in a lot of civil law cases, that even as a Constitution guarantees the liberty of abode and travel, it cannot be impaired except for specific causes, like in the constitutional provision. The wife's mobility however is subordinate to her husband's choice of residence. On the provisions on conjugal partnership of gains where each partner gets equal shares upon its dissolution, the rights of management are not equally shared. The husband is the administrator of the conjugal property, while the wife, consistent with her assigned role of wife and mother, is given management of the household. This is the kind of myth that is being perpetuated by the law, as if it is the law of the Divine Creator that the women should fulfill the noble offices of being a wife and a mother. This is the problem that this provision attempts to address itself to.

MR. VILLACORTA. Thank you.

So, it is clear that the sense of the committee is that antifeminist laws will be repealed, if this provision is approved.

MR. OPLE. Mr. Presiding Officer, may I ask Commissioner Aquino a question? Commissioner Villacorta may supplement her answers, if he desires.

THE PRESIDING OFFICER (Mr. Maambong). With the indulgence of the two Commissioners in debate, Commissioner Ople is recognized.

MR. OPLE. I have a very positive reaction to Section 11, until this is elaborated in the interpellations to become a veto or a fiat actually against existing laws on family relations that are construed to be unaligned or inconsistent with Section 11.

To what extent will this precipitate massive dislocations in family life, when we completely disregard the cultural matrix in which these relations now flourish and the uniqueness of families in the sense that they probably have their own attributes and properties not readily susceptible to being measured by legal standards of this nature?

In effect, are we not treating families in the Philippines like a Procrustes' bed on which we lay down the body of the patient and if there are protruding limbs, we chop them off? Will that not be the result? What about the sociological and the anthropological points of view? There are societies that are inherently matriarchal. Good examples are the Keralan culture in India, the Minangkabau culture in Indonesia and the Negris-Simbilan culture in Malaysia. There are cultures that are dominantly patriarchal. Even in this country, I think there are variations. Are we now going to fit them onto a legal bed of Procrustes under Section 11? And if their limbs protrude because they do not fit the constitutional bed, we are going to chop them off?

MS. AQUINO. It may not be exactly painless for the men, but that would be the effect.

MR. OPLE. So, it is going to be a constitutional bed of Procrustes.

MS. AQUINO. The onus and the burden of this provision when approved will fall primarily on the provisions on family relations in the Civil Code, but then, of course, it would also include the discriminatory laws in terms of undue evidential burden, as on the laws of concubinage and adultery.

MR. OPLE. So, this will have the effect of repealing all of these laws that are considered prejudicial to family equality established in Section 11. I think I am right now experiencing a change of mind about Section 11. That is just a manifestation, Mr. Presiding Officer.

MR. AZCUNA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Mr. Presiding Officer.

On behalf of the committee, as I am the acting chairman right now, I just would like to point out that perhaps, it is not necessary to maintain that anything protruding will be cut off under Section 11, considering that what Section 11 really says, as Commissioner Aquino has pointed out, is that the right given to women is that of equal protection. It does not say they have equal rights. They have a right to equal protection. That does not mean that they will have equal or identical rights, but what equal protection means is that whatever rights are given to them are entitled to equal protection. So, I believe that they are still within the ambit of a reasonable classification since we cannot erase the differences between men and women. In fact, as the French said, *"Vive le difference,"* or let the difference live long. It is possible for the law to treat different matters differently, and men and women being different, they are to be treated differently without violating the equal protection clause. Unless we subscribe to the formulation, like in the UP draft, that men and women are equal in law and in fact, which is not what Section 11 says, then we can still maintain that certain protuberances can survive Section 11.

MS. AQUINO. Mr. Presiding Officer, may I be allowed to some clarification.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. Initially, we manifested that the intention in Section 11 is not to advocate absolute equality or sameness. We have to concede to certain biological differences which, by the law of the Creator, are historically and biologically determined. However, the idea behind Section 11, and I would fully concur with Commissioner Azcuna on that, would be to address itself to imbalances in law and jurisprudence, as well as in the conferment of civil rights between men and women, without saying that men and women can be equal absolutely in all spheres of their lives. For example, we are burdened perenially, and that cannot be challenged, with the responsibility of bearing children and carrying them for nine months before birth. These are the biological differences that we have to concede to and recognize.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Yes, in behalf of the committee and this is just for the record, let me cite some constitutional provisions that show we are behind many countries in terms of women's rights. In Poland, an article states that women in "The Republic" have equal rights with men in all spheres of public, political, economic, social and cultural lives. In France, it says, and this is in the Preamble: "The law guarantees women's rights with men in all domains." In the Federal Republic of Germany, it says: "Men and women shall have equal rights." In the German Democratic Republic, it says: "Men and women have equal rights." In Italy, it is the same – that they would have the same rights in employment; and even in Japan, which is considered a place where women are subordinates, it says: "Law shall be enacted from the standpoint of individual dignity and the essential equality of the sexes."

I will not bother the body with other provisions but there are many provisions which do attest to the equality of women not only in terms of protection but equality in all domains.

Thank you.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Padilla is recognized.

MR. PADILLA. I concur with the view of Commissioner Azcuna that if there be equal protection of the rights, that is all what the law or even the Constitution can provide. Due to the natural differences between man and woman, it is only a woman who can give birth to a child, and that is a very great privilege. In fact, it is the female who is more valuable than the male.

There are some provisions in the Revised Penal Code which favor women; for instance, one of the aggravating circumstances is the disrespect or the disregard of respect due the offended party by reason of his rank, age or sex. This is a recognition of the natural differences between man and woman. If the offended party is a female, except in crimes against chastity where it is an inherent element of the offense, that fact, if it constitutes disrespect or disregard of the respect due the offended party by reason of her sex, by being a woman, is an aggravating circumstance. Whereas, there is no such provision in favor of the male or man. Also, when a woman and a man are separate, both have equal rights. But when they get married, there is not only a contract; there is also a sacrament. I believe the Civil Code properly governs the relations between husband and wife. The fact that the Civil Code provides that, as a general rule, it is the husband then who becomes the head of the family. He chooses the family domicile. He is the administrator of the conjugal property. That is not an attack on the rights of the wife. These are important for the unity and harmony within the family. But as a matter of actual fact, not of law, most families prosper where it is, in effect, the woman who acts as the head or the administrator of the family fortunes. As Senator Recto once said: "La mujer reina pero no gobierna."

Thank you, Madam President.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Villacorta be recognized. He is not yet finished.

THE PRESIDING OFFICER (Mr. Maambong). Before Commissioner Villacorta proceeds, frankly speaking, the Chair is itself confused about the interpretation of the committee on Section 11. So, may the Chair suggest to Commissioner Villacorta to probably ask more questions so that the committee will make a definite statement on the right of women which is supposed to be equal with men and to be insured under Section 11 so that probably we can get a definitive statement from the acting chairman without any contradictory statements from any other members. The Commissioner may go ahead, please.

MR. VILLACORTA. I agree with the Presiding Officer that we are getting different signals from the different members of the committee. So may we request the acting chairman of the committee to restate once more the consensus of the committee, unless he would like to suspend the session and consult the other members of the committee.

MR. AZCUNA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Azcuna is recognized.

MR. AZCUNA. Mr. Presiding Officer, the sense of the committee is that what is afforded here is the right to equal protection which does not mean uniformity in everything. There is equality insofar as the difference is not relevant. That is what equal protection means. We cannot treat it differently where the differences are irrelevant for the purpose of the law for that particular purpose. Where sex is irrelevant, then that should not be the basis for a different treatment. But it does not mean that the law will always treat them the same way. For where and when their differences are relevant, then it is valid for the law to treat them differently.

MS. AQUINO. Yes. There is actually no difference, Mr. Presiding Officer, in the interpretation of Section 11 between Commissioner Azcuna and the committee.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

Protection to women just as we also give protection to men should not mean equal rights to both in the absolute sense. For example, in the case of conjugal partnership, under the Civil Code, it is the husband who manages the conjugal property because the wife is supposed to take care of the household chores and may not have time to manage the conjugal property. In that case, the wife is not denied the right to object to a mismanagement by the husband. The wife may even ask the court to transfer the management of the conjugal partnership to the wife if the husband abuses his powers of administration. In this case, there is some sort of equality. However, I will cite one instance where there is a complete discrimination against women in the case of adultery and concubinage cited by Commissioner Aquino. This is the case of really patent discrimination.

Under the Revised Penal Code, the husband is guilty of concubinage under three expressly stated instances: 1) Maintaining a paramour in the conjugal dwelling; 2) Maintaining a paramour in a place other than the conjugal dwelling; and 3) Having sexual intercourse with the woman not his wife under scandalous circumstances. In the case of a woman, the woman is guilty of adultery as long as she has carnal knowledge or sexual intercourse with a man not her husband under any circumstance. In the case of the husband, there are only three instances mentioned by law. So if a husband brings a woman to a hotel close to the prying eyes of everyone, that is not concubinage and he is not criminally liable. So, that is a clear case of discrimination against the women. In that case, I think the law should be amended. I agree with Commissioner Aquino that there is a discrimination in that respect.

Thank you, Mr. Presiding Officer.

MR. TADEO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). With the indulgence of the Gentlemen, the Chair would like to recognize Commissioner Tadeo.

MR. TADEO. Sandali lang po ito. Mga 30 segundo lamang.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Tadeo may proceed.

MR. TADEO. Sa Section 11, makabubuti sigurong tingnan natin kung paano nilikha ang babae. Saan ba siya hinugot? Hinugot siya sa tadyang ng lalaki. Ang ibig sabihin partner or equal. Hindi siya kinuha sa huling bahagi ng lalaki upang maging katulong at hindi rin naman siya kinuha ng Panginoon sa unang bahagi para mauna sa lalaki; hinugot siya sa tadyang upang maging partner. Ang ibig sabihin ay kabalikat siya sa pampulitika, pang-ekonomiya't pang-kulturang pakikibaka. Kasabay nating nilalansag ang feudal relation sa pagitan ng babae at lalaki, kaya kaisa ako rito sa Section 11. Ang ibig sabihin ng babaeng hinugot sa tadyang ay kabalikat sa pagbabago.

THE PRESIDING OFFICER (Mr. Maambong). With that "tadyang" explanation, can we now proceed, Commissioner Villacorta?

MR. VILLACORTA. I think Commissioner Bengzon wanted to ask a follow-up question.

MR. BENGZON. Just to clarify, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bengzon is recognized.

MR. BENGZON. I address the question to Commissioner Azcuna. With the interpretation that was articulated by Commissioner Azcuna after the exchange of dialogue between Commissioners Aquino and Ople, I want to ask this question: Under the interpretation of Commissioner Azcuna, does it mean then that if Section 11 is passed, all laws in the Civil Code which are contradictory to Section 11 will be automatically repealed?

MR. AZCUNA. Yes, because the Constitution will repeal a statute if it is absolutely irreconcilable and contradictory. But as we stated, not everything that treats men and women differently would go against Section 11; only if that different treatment is irrelevant or based on an irrelevant distinction will it be contrary to Section 11 because it would violate the equal protection clause.

MR. BENGZON. In which case, the courts of law will be the one that will determine which will be in conflict with the Constitution or not.

MR. AZCUNA. Yes, or Congress can itself revise or go over the Civil Code and perhaps align it with the new Constitution.

MR. BENGZON. Thank you.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Villacorta still has the floor.

MR. VILLACORTA. I would like to go back to Section 10 with respect to the provision on children. It says here: "The State shall protect children from all forms of neglect, cruelty and exploitation. . ." This is negatively stated. I wonder if the committee would consider having a more positive statement or stipulation of said protection, something that our resolution proposed: "CHILDREN SHALL HAVE THE RIGHT TO PROPER CARE, NUTRITION, A RELEVANT NON-SEXIST AND QUALITY EDUCATION, AS WELL AS PROTECTION FROM EXPLOITATION AND MENTAL AND PHYSICAL ABUSE."

MR. AZCUNA. The committee will gladly consider an amendment along those lines at the proper time.

MR. VILLACORTA. Thank you.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Quesada is recognized.

MS. QUESADA. This is just to enrich some concepts on Section 11 related to family life. It will not just be changes in the existing laws but also changes in curriculum as well. For example, in family life, there will be some implications in the curriculum of schools whereby home economics and responsibility of being members of the family will now be taught, because we like equality of women and men in relation to household responsibilities. Hence, it will not be mainly women who will now be domesticated but that everybody will have the opportunity to serve and work in the domestic chores. So I think that will be one implication that will arise as a result of this equality in family life.

THE PRESIDING OFFICER (Mr. Maambong). Is there any response from the committee?

MR. NOLLEDO. If I may be permitted, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

If we will adopt the interpretation of Commissioner Quesada, we will be changing the customs and traditions of the Filipino people by constitutional mandate. I do not know if that is the appropriate remedy. I have my own misgivings, Mr. Presiding Officer, because customs and traditions are evolved; they are not dictated by any constitutional mandate.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Villacorta is recognized.

MR. VILLACORTA. May I ask a question related to Section 15, lines 7 to 9:

> The State shall eradicate all forms of discrimination against indigenous cultural communities and shall promote mutual respect and understanding between them and the rest of the Filipino people.

May I inquire from the committee whether this involves banning and rectifying erroneous allusions to ethnic minorities in books, museums, other institutions and records of the government? Is this retroactive?

MS. ROSARIO BRAID. Yes, that is the implication of this provision. We will examine past records of inequities, discriminatory practices and we will attempt to rectify all of these practices.

MR. VILLACORTA. Thank you.

On Section 17, with respect to the recognition by the State on the role of health, will health consciousness as a goal of education be included in the curricula of schools?

MS. ROSARIO BRAID. Commissioner Quesada, who is a member of our committee, will respond.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Quesada is recognized.

MS. QUESADA. Yes, definitely, the inculcation of health consciousness will be part of protecting the health of the people. That is part of the intention.

MR. VILLACORTA. Thank you very much.

With respect to page 5, Section 21, lines 4 to 5:

> The State shall protect the right of the people to communicate and shall promote access to information to enhance social and political participation.

Because there is an absence of a comma after the word "information," would the kind of information that the State will promote access to limited to that information aimed at enhancing social and political participation? Or is this modifying phrase "to enhance social and political participation" in reference to access and not to information?

May I just clarify my point. This might give the impression that the State shall promote access only to information that is aimed at enhancing social and political participation.

MS. ROSARIO BRAID. The phrase "social and political participation" is a consequence of availability of as many kinds of information: economic, cultural, socioeconomic, but we wanted to underscore the enhancement of certain qualities that will contribute to the participation of people. So, this is really a consequence of having access to as much information.

MR. VILLACORTA. I see. At least it is clearer to us now, and probably we could propose some amendments in the style to make it clearer.

MS. ROSARIO BRAID. Yes.

MR. VILLACORTA. Section 23 states: "The State shall broaden opportunities to public office and prohibit political dynasties."

I have two questions on this: How do we broaden opportunities to public office and how do we prohibit political dynasties? Are not these two goals too lofty and are they achievable at all?

MR. NOLLEDO. Although this was initially decided by the Commission when we took into consideration the report of the Committee on Local Governments, I still hope that the Commission will see the proper light.

I am the author of this provision because I take into consideration the political realities in the Philippines, where we have small political kingdoms in different parts of the country. I am talking of family dynasties. For example, we have dynasties in Luzon, in Visayas and in Mindanao.

In our provisions on the Articles on the Executive and the Legislative, we are allowing reelection. In the Philippines, I think it is known to everyone that a person runs for governor; he becomes a governor for one term; he is allowed two reelections under our concept. Then he runs for reelection; he wins. The third time, he runs for reelection and he wins and he is now prohibited from running again until a lapse of another election period. What does he do? Because he is old already and decrepit, he asks his son to run for governor.

In the meantime, he holds public office while the campaign is going on. He has control; he has already institutionalized himself. His son will inherit the position of governor, in effect, and then this will go to the grandson, et cetera. The others who do not have the political advantage in the sense that they have no control of government facilities will be denied the right to run for public office. Younger ones, perhaps more intelligent ones, the poorer ones, can no longer climb the political ladder because of political dynasty.

It seems to me that public office becomes inherited. Our government becomes monarchial in character and no longer constitutional.

And so, I plead to the Members of this Commission to please approve this provision.

As to prohibition of political dynasties, we leave it to Congress to determine the circumstances under which political dynasty is prohibited. This Commission will not determine hard and fast rules by which political dynasty may be condemned. But I think this is a very progressive provision and, in consulting the people, the people will like this provision. I hope the Commission will hear the plea of our people.

MR. VILLACORTA. There is no doubt about the merits of this proposal, but I am sure that Congress would want to be clearer as to the contemplation of the committee with respect to this prohibition of political dynasties.

MR. NOLLEDO. In that respect, if the Commissioner will permit me because I might get lost, after the second reelection, I would recommend that Congress may take this into account; the son may not run because the father has an edge since he controls the incumbent governor and his son is now running.

MR. VILLACORTA. In other words, the Commissioner is mandating Congress to pass laws that will prohibit a next of kin or a member of the nuclear family from running in the same public office, am I right?

MR. NOLLEDO. Under the circumstance, the son may not run but later on, when the governor is no longer incumbent and the son wants to run, he can run later. I think there is an interregnum; there is a period during which he cannot run, but he is not prohibited.

MR. VILLACORTA. The Commissioner is referring only to the same public office.

MR. NOLLEDO. To the same public office or to another public office. Perhaps, he may run for another public office.

MR. VILLACORTA. Would not the concept of political dynasty also refer to other public offices?

MR. NOLLEDO. It is possible.

MR. VILLACORTA. For example, the father is the governor; the mother is the mayor; the son is a municipal council member.

MR. NOLLEDO. Yes, I think that concept should be taken into account by Congress in defining what is a political dynasty.

MR. VILLACORTA. In other words, the sense of the committee is against that also.

MR. NOLLEDO. I am against that situation.

MR. VILLACORTA. Here is a situation which is not hypothetical but something which actually happened. Corazon Aquino ran for President vice her husband who was assassinated. Should that situation be repeated? Would the committee be against that kind of situation?

MR. NOLLEDO. That is hypothetical because Corazon Aquino did not succeed the husband. The husband never ran for public office. Corazon Aquino ran on her own.

MR. VILLACORTA. But is it not a kind of continuity within the family with respect to the aspiration for a public office which is the presidency? Would we prohibit that?

MR. NOLLEDO. Why do we not make it like this: the husband is the President and he died; the wife runs for President? In that case, I think the Congress may take into account that the husband is no longer incumbent; he is dead and may not have control of the facilities of the government. There will be no undue advantage that may take place. Perhaps, the rule against political dynasty may not apply to such kind of a situation.

MR. VILLACORTA. In other words, the Commissioner is limiting the concept of political dynasty to a situation where the next of kin is an incumbent.

MR. NOLLEDO. That is only an example. There may be other circumstances that we may not now foresee.

MR. VILLACORTA. Thank you.

What about broadening opportunities to public office? Why does the Commissioner want this? We would like to know why the Commissioner wants to broaden opportunities to public office. Is it not that having too many people in public offices and having too many public positions are our problems?

MR. NOLLEDO. We are actually talking of political dynasties but the committee reformulated my original provision. The committee wanted to expand the meaning of the provisions, so they put: "The State shall broaden opportunities to public office." But we are talking of elective offices.

However, we do not preclude the application of this provision to other offices that are not elective in relation to political dynasties. The Commissioner is right when he said that I must be referring to the situation contemplated by his question.

MR. VILLACORTA. Thank you.

Section 24, lines 14 to 17 states:

> The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country and they shall not be extradited.

I personally laud the intention of this provision; however, can we not foresee a situation where the Philippines will be flooded by political refugees? Let us say, there was a revolution or a takeover of the government by an authoritarian or totalitarian group of leaders in a neighboring country, like Indonesia. We find thousands or even millions of Indonesians coming to the Philippines. With this mandate we cannot say no to them; we cannot deport them. This will open the floodgates of entrants who will be pushing aside our own population in terms of housing opportunities, food and other resources which are very limited.

MR. NOLLEDO. We will remember that, together with Commissioner Garcia, I presented this on the floor. There was a discussion and the Commissioner's apprehension and fear was originally expressed by Commissioner Ople, who cited instances, and because of which we wrote the words "under the conditions laid down by law," as suggested by Commissioner Ople himself because of that possibility. I would like the Commissioner to know that the application of this provision should generally cover only the leaders of the liberation movement of a foreign country.

MR. VILLACORTA. Only the leaders.

MR. NOLLEDO. Their purpose here is to protect freedom fighters if we really believe in the freedoms guaranteed by the Bill of Rights. We must necessarily fortify that belief by extending to freedom fighters abroad our hospitality in welcoming them to our country. As mentioned by Commissioner Azcuna, who interpellated me in this respect, the stay of these freedom fighters in the country is only temporary. They will not become permanent residents here. We only want to manifest to the whole world that when we adhere to the importance of freedom, we want that freedom also to be enjoyed by aliens who would like our protection in case of persecution.

MR. VILLACORTA. In other words, the intention of the committee – I assume the Commissioner is speaking on behalf of the committee on this point – is to simply grant temporary asylum, is that correct?

MR. NOLLEDO. The Commissioner is correct.

MR. VILLACORTA. I see. The other thing is, who is going to decide whether these foreigners, who are seeking asylum are actually persecuted in their country, are actually defending human rights and fighting for the liberation of their country? Is it the asylum seeker himself or the government?

MR. NOLLEDO. Congress shall lay down the conditions under which that determination may be made. I recommend strongly for Congress to be given the initial right to determine the status of a foreigner seeking asylum to administrative authorities.

MR. VILLACORTA. Section 26, lines 23 to 25, states: ". . . it is the right of the people, it is their duty, to change such government." This is in reference to a government which has a long string of abuses and usurpation and to provide safeguards for their security. Is not the whole Constitution aimed at this? In other words, we have the mechanics for a peaceful political change in case there are abuses and usurpation by the government. If we are talking about changing such a government peacefully, then I think this is more than provided for in the provisions on the executive, et cetera, unless we are talking about a bloody revolution. If it is our intendment, then we should say so very clearly.

MR. DE CASTRO. I happen to be the author of this provision and, as I said yesterday, this was recommended to me by the armed forces and I noted later that it is almost verbatim except a few words which have been deleted and a few words added. This is taken from the Declaration of Independence of the United States, passed unanimously by the 13 original states on July 4, 1776. I thought that it was a good presentation of what really happened during the 20-year rule of the old regime and what we did in EDSA. And so, because I do not like to copy the Declaration of Independence, I have requested a few of my colleagues here, Commissioners Azcuna and Monsod, to give me a good formulation on how we can portray EDSA and the 20-year misrule.

On the other hand, after having been advised by some of my good friends, it seems that I am most afraid now that this may be used by the extreme left, by some cause-oriented groups, and principally by the communists in our country to take up arms against our government. Hence, I thought of a reformulation of this matter, and I will be most willing to receive whatever recommendation there may be from my colleagues. I am most afraid now of the possible effects of a minority revolting against our country. But my conscience was clear when I proposed this provision. This is just to highlight the misrule that lasted for 20 years and our peaceful revolution of February, 1986.

MR. OPLE. Mr. Presiding Officer.

MR. VILLACORTA. Thank you, Mr. Presiding Officer; I have no more questions.

THE PRESIDING OFFICER (Mr. Maambong). Thank you, Commissioner Villacorta.

Commissioner Ople is recognized.

MR. OPLE. We are talking of Section 26, and we are indebted to Commissioner Villacorta for calling attention to this section. I do not know if the committee took into account the original resolution filed by Commissioners Maambong, Natividad, de los Reyes and myself, which called precisely for a section recognizing the right to revolt by an oppressed people. Of course, I was pleasantly surprised when I came upon Section 26 which was lifted bodily from the text of the U.S. Declaration of Independence. It is an excellent formulation, except that if we allow it to stay in this precise fashion, we can be accused of the serious crime of plagiarism. I do not think the committee is wanting in the ability to formulate our own equivalent of these ringing words of the U.S. Declaration of Independence.

But when we filed this resolution with the Committee on the Declaration of Principles, Mr. Presiding Officer, we did not contemplate specific challenges to the security and the integrity of the State and the manner of groups that will bring that about in the future. We just want to establish the principle already embodied in Section 1 of the committee draft which states:

> The Philippines is a republican and democratic state. Sovereignty resides in the Filipino people and all government authority emanates from them and continues only with their consent.

That last clause directly supports and is elaborated by Section 26. I think the general sense of this section is nothing more nor less than that government authority emanates from the people and continues only with their consent – once a nation has withdrawn its consent because a Constitution has been grossly disregarded by a ruler. This same Constitution that we are drafting, for example, after it is ratified, can reflect this timeless principle that the nation holds its destiny in its own hands without distorting the commitment to peace and to constitutional process.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. As I said before, this was a recommendation which I got from the armed forces and on first reading, I thought it really reflected what I have in my mind which is about the 20-year misrule and the February Revolution in EDSA. But when I submitted my resolution, I found out that some words were taken away, like "overthrow of the government, etc." from the Declaration of Independence. And upon advice, I am really most afraid now that this may be used by cause-oriented groups, the extreme left and more particularly the communists. So, I requested my colleagues who are good in formulating constitutional provisions to help me reformulate this. I hope that in the period of amendments, if I cannot get a better form, I will be the one to request its deletion.

Thank you, Mr. Presiding Officer.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Before the Chair recognizes Commissioner Sarmiento, the Chair suggests to the committee, considering that it has not yet found a new formulation, to go over Proposed Resolution No. 457, the formulation of which Commissioner Nolledo has already been furnished.

MR. AZCUNA. Mr. Presiding Officer.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment. The acting chairman has something to say. Commissioner Azcuna may please proceed.

MR. AZCUNA. Thank you, Mr. Presiding Officer.

We would like to state for the record that the committee also took into account, although unfortunately it is not reflected in our report, the proposed resolution of Commissioners Ople, Maambong, de los Reyes and Natividad along these lines but we followed the wording proposed by Commissioner de Castro to the same effect. We are studying right now the proposed alternative wording to Section 26 and the wording I have here with me would be really taken up during the period of amendments. I just want to read it for the present: "THE END OF THE INSTITUTION, MAINTENANCE AND ADMINISTRATION OF GOVERNMENT IS TO SECURE THE EXISTENCE OF THE BODY POLITIC, TO PROTECT IT AND TO FURNISH THE INDIVIDUALS WHO COMPOSE IT WITH THE POWER TO ENJOY IN SAFETY AND TRANQUILITY THE RIGHTS AND THE BLESSINGS OF LIFE. AND WHENEVER THESE GREAT OBJECTS ARE NOT OBTAINED, THE PEOPLE HAVE A RIGHT TO ALTER THE GOVERNMENT AND TO TAKE MEASURES NECESSARY FOR THEIR SAFETY, PROSPERITY AND HAPPINESS."

Thank you.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nolledo is recognized.

MR. NOLLEDO. For purposes of record, may I be permitted to read the resolution of Commissioners Ople, Natividad and Maambong. It reads as follows:

> The people may, where all peaceful remedies have been exhausted, resort to the ultimate expression of their sovereign right to eliminate a tyranny and replace it with the democratic government.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Sarmiento may now proceed.

MR. SARMIENTO. Mr. Presiding Officer, I would like to address one question to the committee particularly to Commissioner Nolledo. Did I hear the Commissioner right that he limited the word "foreigners" to "leaders" under Section 24 which speaks of temporary political asylum? I ask this question because many of those who sought political asylum in the United States were not necessarily leaders but followers, and we handled some of these applications for political asylum. Is the Commissioner limiting it to leaders?

MR. NOLLEDO. That was only a suggestion to the Congress. As far as I am concerned, there should be no limit as long as there are reasonable conditions laid down by law.

MR. SARMIENTO. So followers would also be covered by the word "foreigners."

MR. NOLLEDO. They can be covered.

MR. SARMIENTO. Thank you.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Gascon be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Gascon is recognized.

MR. GASCON. Thank you, Mr. Presiding Officer.

I would like to address a few questions to the committee if I may. I would like to ask Commissioner Nolledo at the onset with regard to Section 1. Since the Commissioner has already mentioned it in the previous interpellations on this topic, may I ask his definition of communism and socialism.

MR. NOLLEDO. Is the Commissioner asking me the definition of socialism and communism?

MR. GASCON. Yes, because the Commissioner mentioned twice that this term "democratic State" on lines 7 and 8 does not imply at all or think of any communist or socialist state for that matter.

MR. NOLLEDO. I said it is not in the lingo as understood in socialistic and communistic countries.

MR. GASCON. Yes. What does the Commissioner mean by that?

MR. NOLLEDO. We should know that even the Russian Constitution talks also of freedom of religion, but in actual practice, they do not generally tolerate religion in the country. They do not believe in God and they talk of democracy also. But it seems to me that there is no democracy as understood in western style or Philippine style. In socialist republics, people also talk of democracy and the rule of the proletariat. But it seems to me that if there is a consultation, the consultation is not free and voluntary as may be contemplated in a democratic country like the Philippines. Please correct me if I am wrong on that.

MR. GASCON. I would like to clarify that point because it might lead to certain misconceptions that the dichotomy in the world is the dichotomy between communism and democracy or socialism and democracy. I beg to disagree that that is the dichotomy in the ideology in the world. If there is a dichotomy at all between communism and any other economic perspective, it is a dichotomy between communism and capitalism or communism or socialism against capitalism and not against democracy. There is such a movement known as democratic socialism. When we mentioned the words "it does not contemplate socialist perspectives," I was a bit bothered by that because if we look at the basic definition of democracy, which is governance of the people, for the people and by the people, socialists contend that theirs is a democratic state in the sense that it reflects the interests of the majority, the working class, the workers and peasantry.

MR. NOLLEDO. I would like the Commissioner to know that as author of this term "democratic state," I am not ruling out certain concepts in socialism. I am putting the word "democratic" because of the provisions that we are now adopting which are covering consultations with the people. For example, we have provisions on recall, initiative, the right of the people even to participate in lawmaking and other instances that recognize the validity of interference by the people through people's organizations, et cetera. So, I do not mean that when I talk of socialist republics I am talking of republics that believe purely in communism. I do not rule out socialistic ideas. In fact, we are adopting socialistic provisions. I tell the Commissioner frankly and publicly that I am a little bit socialist-oriented, but I am not a communist, definitely, because I am a firm believer in God. I am supporting the Bacani resolution of giving protection to the unborn.

MR. GARCIA. Yes. Mr. Presiding Officer, perhaps I would like to make more precise the concepts here. I think this section is trying to differentiate democracy from totalitarianism or authoritarianism wherein we exclude the majority from participation in government or in the decisions that will affect the life of society. So, that is a more precise distinction between democracy and totalitarianism or democracy and authoritarianism.

MR. GASCON. Thank you for that. As expressed by Commissioner Nolledo this morning in his interpellations, I was a bit bothered in the sense that he was already making some judgments on certain governments at this point in time when I am totally for the provision on emphasizing that the State that we are establishing is a democratic state. When he speaks of concepts of democracy, he must realize that there are different ideological groups with different perspectives and understandings of democracy. So, Commissioner Garcia's point is very clear that when he speaks of democracy, the dichotomy is really a dichotomy between democracy and totalitarianism since it is a fact that there are socialistic states which are totalitarian in character, and the Commissioner has mentioned his objection to them. I would agree with the Commissioner totally. So long as the State limits the freedoms of the people, we have to oppose it.

MR. NOLLEDO. But there are also republican forms of government which are totalitarian, just like Chile.

MR. GASCON. Yes, and then there are totalitarian states which are capitalists in character as well. So the point is that when we emphasize the word "democratic," it is not really a response against socialism *per se* or communism *per se*, but really against totalitarianism of whatever form, whether it be socialistic or capitalistic in character. Does the committee agree?

MR. NOLLEDO. As far as I am concerned, I can agree with the Commissioner, but I cannot bind the other members of the committee.

MR. VILLEGAS. May I just add some thoughts to the discussion, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Villegas is recognized.

MR. VILLEGAS. As long as the communism that the Commissioner is talking about is a communism that is based on Marxist-Leninist lines, then by definition it requires a dictatorship of the proletariat and, therefore, that communism is completely incompatible with democratic principles because we will remember that Marx and Lenin talked about a transition by the State to pure communism going via socialistic principles where the State takes over all the means of production and there is dictatorship of the proletariat. If that is the kind of communism the Commissioner is talking about, then definitely it is completely incompatible with Section 1.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Before the Chair recognizes Commissioner Rosario Braid, the Chair thought that Commissioner Gascon was already totally satisfied with the reply of Commissioner Garcia. Can we not leave it at that and proceed to another point?

MR. GASCON. I would like to make a follow up on this point itself.

THE PRESIDING OFFICER (Mr. Maambong). Yes; but the Commissioner is satisfied.

MR. GASCON. I would like to listen to Commissioner Rosario Braid.

THE PRESIDING OFFICER (Mr. Maambong). Yes, however, is Commissioner Gascon satisfied with the reply of Commissioner Garcia?

MR. GASCON. Yes.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Rosario Braid may then proceed.

MS. ROSARIO BRAID. Commissioner Nolledo wanted to know whether or not this is a committee opinion. Yes, it is. We regard this kind of democracy as a participatory democracy. To reinforce Commissioner Garcia's point, communism and capitalism have seeds of totalitarianism; therefore, a certain sector in the population is excluded. It is really the concept of exclusion of certain sectors of the population that would make it less democratic. What we are trying to say is that this is a concept where people and sectors may participate. The concept of participatory or communitarian democracy perhaps best expresses this concept.

MR. GASCON. Or perhaps, popular democracy.

MS. ROSARIO BRAID. Yes.

MR. GASCON. Mr. Presiding Officer, I would like to make my reactions to the statements of Commissioner Villegas. In fact, I agree with the Commissioner in the sense that what is wrong with Marxist-Leninist thought is the concept of a vanguard party or a one-party system.

Do I take it to mean that when we say that the Philippines is a republican and democratic state there shall be democratic alternation of power, which means regular elections, representations by the people through direct elections? In certain totalitarian states, whether they be capitalist or socialist in character, there is only one party. What we should be emphasizing further is the encouragement of multiparties whether they be socialistic or liberal-democratic or capitalistic in character.

MR. NOLLEDO. I agree with the Commissioner.

MR. GASCON. I would like to give a hypothetical situation. Let us say that the Communist Party of the Philippines renounces violence and decides to participate in the electoral struggle. Does this provision allow for its participation?

MR. NOLLEDO. Yes, because of the multiparty system and the provision that I introduced in the Bill of Rights that no person shall be detained merely by reason of his political beliefs and aspirations as long as he pursues his objectives through peaceful means.

MR. GASCON. Therefore, Mr. Presiding Officer, it is a possibility that this provision will not preclude a situation in the future when, let us say, the Communist Party becomes the dominant political party in Philippine society if it shall be elected into power by the people.

MR. NOLLEDO. That is a possibility.

MR. GASCON. Also, there is no contradiction in the phrase "democratic state" if, for example, the Communist Party of the Philippines will be elected by the people, let us say, 20 years from now?

MR. NOLLEDO. That is a possibility, but the Communist Party in that case must respect the Constitution or it may change the Constitution and align it with the Constitution of Russia and other communist countries, although I do not consider that possibility to take place within 20 years; perhaps, 50 years or more.

THE PRESIDING OFFICER (Mr. Maambong). What is the pleasure of Commissioner Garcia?

MR. GARCIA. I would like to add my thoughts on this point. I think what has been stressed is a very important concept in democracy. That is democratic alternation in power. Secondly, it is also important that we have the free struggle of ideas in the parliamentary arena. In Europe, right now, they have seven governments which are in fact democratic-socialist governments: In France, there is the *Partie Socialiste* of Francois Mitterand where, initially, they have as partners in government the *Partie Communist* with four ministries in government; in Spain, the *Partido Socialista Obrero de España,* led by Felipe Gonzalez, which is now in power; in Portugal, they have Mario Suarez; they have one of the leading parties in Italy, the coalition government of Benito Craxi which is the *Partido Socialista de Italia;* and then, of course, in Austria.

The point I am trying to make is that this is possible so long as there is popular support. It was mentioned that there is no one party that is going to stay in power without any alternation. In fact, it is a very important point to make that in Chile, Salvador Allende was an elected Marxist President. He was unable to finish his term of office in 1970 because he was deposed by a military coup, primarily because his government curtailed freedom. Yet we now see that the government of Pinochet, having been installed in power for the past 13 years and determined to stay longer in power, is what one would call authoritarian, in contrast with other countries who may have a different ideology but may not have this alternation that would be totalitarian and this is what we are against.

What we would want to have in this section is a democratic form of government no matter what economic vision and economic system it might have, because even the Universal Declaration of Human Rights respects the rights of nations to self-determination as to the viable political and economic systems that the people wish to support.

MR. GASCON. Thank you, Mr. Presiding Officer. In fact, that was what I was contemplating when I asked this question. I just hope that when we speak of a "democratic State," this does not exclude various political parties with different economic visions to participate in the free electoral and democratic processes as what has been mentioned already by Commissioner Garcia. I was contemplating very seriously that in the near future there could be a possibility, as there is a trend in Europe today, where socialist parties are popularly elected by the people. In fact, not only socialist parties but also communist parties are being elected into power. I believe Enrico Berlinger's party was once a dominant party in Italy, it being a communist party, and they were elected popularly into power. These are the Eurocommunists. I was thinking that this term "democratic State" does not exclude any party and that we should really be fair on this commitment to a multiparty system, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, may I make a remark before the Commissioner proceeds because I might be charged of inconsistency. Commissioner Bacani asked me a question of whether the use of the term "democratic State" means a rejection of communism, so I said yes. That answer should be qualified by the possibility contemplated by the Commissioner's question that when the communist party lays down its arms and participates in the electoral process in a peaceful way, it wins support of the people. It is possible that the communist party may run the affairs of government in the expectation that that party should respect the Constitution.

MS. ROSARIO BRAID. In other words, regarding these cases mentioned in Europe, Italy, and others, the communist party loses many of its old features once it becomes legal and competes in the parliamentary struggle and its temper becomes moderate, et cetera.

MR. GASCON. Yes, once they are recognized. So there are also other political parties which present other viable alternatives which the people themselves will decide. The whole point is, we provide the people with the opportunities for choosing their leaders themselves through regular elections and other means of popular participation.

That would lead me to my second point, Mr. Presiding Officer. When we speak of "democratic State," as in the interpellation of Commissioner Tadeo where he spoke of the term "consultation" which I fully support, it implies that those elected into office must continually consult with the people. However, I would like to add my own perspective to this, Mr. Presiding Officer. Does this merely imply a consultation that is limited to a few? It is true that the elected officials will consult, but they will consult only, let us say, the ruling intelligentsia, the elite or those who have economic and political power. My point, Mr. Presiding Officer, is, when we add the phrase "democratic State," is this also a recognition of the struggle of the Filipino people for the past 20 years to move from an elitist type of democracy to a genuine popular democracy rooted in the masses and not in the choosing of leaders and alternation of powers of the few?

MR. NOLLEDO. We contemplate that movement, Mr. Presiding Officer, that is why we are talking of participatory democracy. We have to consult people from all sectors. We do not consult only those with vested interests.

MS. ROSARIO BRAID. With this provision, we will be opening up more channels of communication, strengthening people's consultative mechanisms by using all sorts of bottom up, horizontal and vertical communication and strengthening all these linkages so that we can ensure that there is actual dialogue and interaction going on. This provision has relevance to strengthening educational communication systems and all sorts of linkages with local government.

MR. GASCON. So, Mr. Presiding Officer, is this a repudiation of the formal elitist type of democracy?

MR. NOLLEDO. Certainly.

MR. GASCON. Thank you, Mr. Presiding Officer.

Section 2, line 12,speaks of the provision which says: "They renounce war as an instrument of national policy. . ." I would like to know why it is important to emphasize this provision. Does this mean that the Philippines shall not take a militaristic, imperialistic and colonialistic attitude as far as relating to other countries?

My second question is: Does this imply a pacifist attitude as far as foreign policy is concerned?

MR. NOLLEDO. Yes, it implies a pacifist attitude because what we renounce is only aggressive war; we do not renounce defensive war.

MR. AZCUNA. Mr. Presiding Officer, is the Commissioner telling us that if we are attacked we will not defend ourselves?

MR. GASCON. Mr. Presiding Officer, that is my point. Pacifism as a movement in the world today even renounces aggression in itself.

MR. NOLLEDO. Even in self-defense.

MR. GASCON. Yes. So, I would like to clarify that, Mr. Presiding Officer.

MR. NOLLEDO. A concept of pacifism is that when one is attacked, he just allows the attacker to kill him. Self-defense is an instinctive right that is inherent in human nature. I do not believe that even a pacifist will not defend himself.

MR. AZCUNA. This is best stated in the John Wayne philosophy, Mr. Presiding Officer, when he said: "We ain't looking for trouble, Mister, but if trouble comes galloping around looking for me, I ain't hard to find."

MR. NOLLEDO. One's instinct will urge one to defend himself.

MR. AZCUNA. We can defend ourselves. We renounce war only when it is an aggressive war.

MR. GASCON. As an aggressive policy of the State.

MR. AZCUNA. This is taken from the Pact of Paris of 1926, otherwise known as the Kellog-Briand Pact, which was incorporated in our Constitution in 1935. It is the renunciation of war as an instrument of national policy. This was also elevated to the UN Charter – renouncing the use of threat or force in international relations. And this has ripened into what is known as a peremptory norm in international law – a used cogence that is an imperative norm which not even a binding treaty can provide against; a treaty that violates a fundamental norm in international law would be void. So, we cannot even have a treaty allowing aggression. That would be a void treaty. So, this is very fundamental, that is why we put it here.

MR. GASCON. Thank you, Mr. Presiding Officer.

MS. ROSARIO BRAID. If I may add, for the record, I think some of the members of the committee also feel that demilitarization is one step towards this type of stand; we support demilitarization.

MR. GASCON. So, Mr. Presiding Officer, when we speak of a renunciation of war and demilitarization, does that imply a gradual deletion of our armed forces?

MS. ROSARIO BRAID. I suppose our general is not here, but I speak for some of the members who are for evolutionary and gradual demilitarization.

MR. GASCON. That would, therefore, imply that for future executives, there will be cuts in the military.

MR. AZCUNA. Within the context of defense requirements, Mr. Presiding Officer, if we believe that there is a need to be ready, our geopolitical situations being considered, then we should develop a capability to defend ourselves especially through citizens armed forces, which are contained in the General Provisions of the 1973 Constitution. This humble Representation introduced the idea of a citizens army, a territorial army based on the citizens like in Yugoslavia, Israel and Switzerland, whereby the people will be able to defend themselves. We, in fact, propose in this declaration that it is the prime duty of the government to serve the people and then the people and the government in turn have the duty to defend the State.

MR. GASCON. Thank you, Mr. Presiding Officer.

Does this also mean that in relating with other countries in the world, we shall encourage the movement of peace? Is this directly related to Section 3, which calls for the establishment of a zone of peace, freedom and neutrality in this part of the world as part of that commitment to world peace?

MR. AZCUNA. Yes, Mr. Presiding Officer, that is right; to seek peace, to be peace-loving and at the same time to be ready to defend that peace, if it is threatened.

MR. GASCON. Thank you, Mr. Presiding Officer.

I would like to go now to Section 3. Much has been said about this section – the U.S. military bases in the Philippines and the need for their retention to maintain balance of power in this part of the world. I would like to be enlightened further on this issue of balance of power. Since I am a staunch believer of nonviolence, I would like to term it better as balance of terror in this part of the world. Is there really such a situation of a balance of power or terror which contemplates a necessity for the bases to stay in the Philippine territory, Mr. Presiding Officer?

MR. GARCIA. I think the use of the phrase "balance of terror" is very apt. In fact, it is ironic, but one of the terms that they also use is "mutually assured destruction" in terms of nuclear deterrents, the acronym of which is MAD. To be very precise, I think, the argument has been utilized time and again that we need the bases as a deterrent against communism. If we look at the issue in the Pacific, they say we must try to balance the two superpowers. What is the real score? What is the real story? Can we reexamine the historical record?

The U.S. has about 520 military installations in U.S. territories, East Asia and the Pacific region for its military operations and it is now concentrating in the area of the Pacific because this is where our bases are lying. Of these, some 350 bases are in foreign territories, 86 of them major military bases for its Pacific operation. That is as far as the U.S. is concerned.

In stark contrast to the U.S. basing system, the Soviet basing system is composed of about two dozen military bases in the region including its major bases in Vladivostok and the other in Petropavlovsk. Its extraterritorial bases are: Cam Ranh Bay, a naval base and Da-nang Airbase; Najin in North Korea, which is a naval facility; and an air defense installation in the Currie Islands. Thus, when the Commissioner speaks of the growing Soviet presence in the area, they should be seen in the context of long-standing U.S. military dominance and even broader U.S. military deployment in the area. It should be noted that while the U.S. has most of its Pacific bases in foreign soil, the Soviets have most of their bases within Soviet territory. The important point to stress here is that there is definitely U.S. superiority over the Soviet Union in the Pacific. On the 29th of April, 1982, Defense Secretary Casper Weinberger admitted, and I quote, "I will not for a moment exchange anything between the U.S. and Soviet theater forces because we," meaning, the North Americans, "have an immense edge in technology." In the same year, on March 16, 1982, former Commander-in-Chief of the Pacific Command, Admiral Robert Long stated, and I quote: "The US is the dominant military and economic power not only in the Pacific theater but also in every other theater in the world." In 1980, General Maxwell Taylor declared: "I am concerned that too many people are downgrading our military. In four hours, we can rain more death and destruction on that country," meaning, the Soviet Union, "than they have experienced in four years of war." I think there is something wrong about the argument because right now there is Cam Ranh Bay. Therefore, they need Clark and Subic. One has to see it in its total context.

As I mentioned, there are 520 military installations of the U.S., 86 of them major bases in the Pacific operation as against two dozen military bases of the Soviet Union. It is important to note that even Cam Ranh Bay and Da-nang were originally American bases. Will the withdrawal of U.S. troops and facilities in their bases here create a vacuum so that the communists would come in? I think so much has been said, so much has been written in this politics of fear saying that if we do that, then we will create this problem. I would tend to think differently. There is a possibility that if there is a withdrawal of military bases and troops in our area, we could perhaps reduce military tensions, reduce the number of troops and military facilities, begin the process of demilitarization and also lower the level of nuclear arms in the area. I think it is noteworthy to take note of the 28th of July, 1986 statement of Mikhail Gorbachev in a forum on Soviet International Affairs in the Pacific wherein he stated:

> In general, I would like to say that if the U.S. give up military presence, say, in the Philippines, we would not leave this unanswered.

First of all, I do not agree with him when he said: "if the U.S. give up its military presence" because it is not up to the U.S.; it is up to the sovereign nation, the Philippines, whether we wanted to terminate this presence. That is my disagreement with Gorbachev. But I would like for us to take seriously the statement. Is it possible, for the sake of regional and global peace, for us to explore and find out if it is true that if there is withdrawal of one force of a superpower in the region, there would be a corresponding action which would mean a reduction of tensions, of military presence and a reduction of bases? I think this is important to explore, for us to take seriously as one of our contributions to bring about peace in the region. I think it is also noteworthy in this same statement that support was expressed urging nuclear powers to respect nuclear-free zones. I think we must challenge them, if this is real on their part. Are the Soviets willing to remove their nuclear weapons in the area also if there is a corresponding action on the part of the North Americans? I think we may be a small nation but we can provoke this kind of thinking; we can widen the frontiers where nuclear-free zones can be respected just as New Zealand has done. In the South Pacific, they have also taken this move. I think this is important.

The final point I want to make is that it is rather clear that this nuclear deterrence, this nuclear madness, is escalating to such an extent that there is a violation even of nuclear-free zones. I do not know if many of us are aware that in February 1985, a document was made public by William Arkin, Director of the Arms Race and Nuclear Weapons Research Project of the Institute for Policy Studies, which was taken from a memorandum of the Nuclear Weapons Deployment Authorization. It was a memorandum entitled "Nuclear Weapons Deployment Authorization" in which President Reagan authorized the deployment of 467 nuclear bombs in eight nations without informing the countries concerned. And in this memorandum, the Philippines has a dubious distinction of being the recipient of the largest number of those nuclear bombs – 227 of the 467 bombs. The point I am trying to make is, we must take this seriously. That the bases are connected with the problem of weapons is a fact but we should not risk our survival, our safety, our sovereignty in this context of the East-West conflicts and of Soviet-U.S. battle for supremacy and superiority. I think we have our own interest to protect and even as a small nation, we can take initiatives which can have worldwide repercussions.

MR. GASCON. What the Gentleman is actually saying is that the nonpresence of U.S. military bases in the Philippines does not necessarily mean that there will be Soviet presence in our country.

MR. GARCIA. Exactly.

MR. GASCON. Is it a possibility that if the U.S. bases are removed the bases of the Soviet Union in Vietnam will likewise be removed? My point of view is that before the bases are removed, we must also make sure that the bases in Vietnam are likewise removed so that we are really generally committed to a zone of peace, freedom and neutrality where none of the superpowers are allowed in our territory.

MR. GARCIA. Precisely, and I think that when Commissioner Aquino was explaining the movement towards a zone of peace, freedom and neutrality in the region, it was also in a sense directed to the effort of making sure that nuclear weapons and military bases in the region will be more avoided. If the Declaration of Principles in our Constitution will be approved, it could help future governments to have a more imaginative, creative and aggressive foreign policy that will enable a genuine and active peace policy to be pursued in the region. I think we must not be lacking in imagination.

As I said, although we are a small country, at least we can take initiatives that can bring about peace in the region.

MR. GASCON. So our call for the removal of the U.S. military bases in our territory is also a call for the removal of other bases of other superpowers in the region?

MR. GARCIA. That is my understanding. As one can see, what we will be creating is not just a reality but also a consciousness within the region, together with other nations like New Zealand, which has taken a step forward, the South Pacific nations and ASEAN nations, which in their last conference also approved this direction, to think of our interest rather than simply aligning ourselves with one of the two superpowers in the world.

Allow me to paraphrase one of my favorite authors, Gabriel Garcia Marquez. When he received the Nobel Prize for literature, he in fact put it in this manner. He said:

> Must we be condemned to be a pawn in the hands of either of the two superpowers? Is it impossible to find another destiny than to live at the mercy of the two great masters of the world?

And then in his very last paragraph, his answer is a resounding yes to life and freedom, and he said:

> Yes to life where no one will be able to decide for others how they die, where love will prove true and happiness be possible, and where the races condemned to 100 years of solitude will have at last and forever a second opportunity on earth.

MR. GASCON. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). May the Chair interrupt at this point. The Chair does not really mind long-winded discussions, but the Chair notices we have consumed something like 30 minutes on this point alone and we do have other scheduled interpellators. In fairness to them, may I just request the committee members to please limit their answers to the specific questions if it can be done at all.

Thank you.

MR. GARCIA. First of all, allow me just one minute to respond. I thank the Chair very much for allowing us the time. I realize many of us have often said how important this matter is. A lot of us have done a lot of research knowing that this is a very, very serious matter. I wish the whole country can be involved in this entire debate. It is such an important thing to know that 30 minutes may seem long to us, but really it is such a short time if we consider the importance of the matter to the entire life of the nation.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bengzon is recognized.

MR. BENGZON. Of course, we realize that 30 minutes is very short. We are only requesting that repetitions be avoided. That is all.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Villegas is recognized.

MR. VILLEGAS. I also wanted to say that some points have been repeated again and again, and I think we are just losing time. If some people were not here during some of the deliberations, it is their fault; and if they keep on asking the same questions, I think we are losing time.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Gascon is recognized.

MR. GASCON. Thank you.

I would like to ask this question of Commissioner Azcuna, if I may. With regard to this zone of peace, freedom and neutrality, because much has also been said that it will be a diminution of our sovereignty if we make a strong commitment to neutrality, does diminution of sovereignty necessarily follow from a commitment to neutrality?

MR. AZCUNA. Mr. Presiding Officer, it does not necessarily follow that a state that commits itself to pursue a zone of peace, freedom and neutrality would diminish its sovereignty. As a matter of fact, this is sought to enhance the sovereignty of the State because it is a course of independence or self-reliance taken on a regional stance. They are staking together with their neighboring states' position where they stand alone and they do not rely on foreign powers to buttress their area. Therefore, I believe it does not diminish sovereignty but rather enhances the same.

MR. GASCON. Mr. Presiding Officer, with regard to this zone of peace, freedom and neutrality, much has also been said that we will be the first country that will commit ourselves to that. It is to my knowledge, and I just would like to ask if it is also the Gentleman's knowledge, that even the ASEAN members recognize that an ASEAN Declaration on Neutralization of Southeast Asia, which was in November of 1971, was a significant trend towards establishing a nuclear-free zone in this region. In fact, they say that it is a desirable objective.

So, even our ASEAN brothers believe that a nuclear-free zone in Southeast Asia and an eventual neutralization is a desirable objective. Is that correct, Mr. Presiding Officer?

MR. AZCUNA. Mr. Presiding Officer, the ASEAN has adopted a declaration to pursue the so-called ZOPFAN—

zone of peace, freedom and neutrality. The point, I think, raised is that we would be the first State to put such a policy in the Constitution. I just would like to say that we are also the first State to have a peaceful revolution. It is not necessarily a negative thing to be the first.

Furthermore, Article IX, second paragraph, of the Japanese Constitution provides that Japan forsakes the maintenance of land, sea and armed force on a war potential. It is similar to the statement that the territory of Japan is limited to peaceful purposes.

MR. GASCON. So we are not alone, as far as the Philippines is concerned, in this commitment, Mr. Presiding Officer.

MR. AZCUNA. Not really.

MR. GASCON. Mr. Presiding Officer, when we speak of ZOPFAN, I cannot perceive a genuine ZOPFAN without the participation of the non-ASEAN countries which are in this region like the Indo-Chinese countries, Kampuchea, Laos and Vietnam, maybe even Taiwan and China. What are the possibilities of our working towards such a zone of peace, freedom and neutrality with these countries?

MR. AZCUNA. Mr. Presiding Officer, the idea of a ZOPFAN is that there will be a treaty entered into principally among the ASEAN countries, declaring the ASEAN zone a zone of peace, freedom and neutrality. And then, there will be several protocols attached to such treaty: Protocol I, Protocol II, Protocol III.

Under Protocol I, neighboring states to the ASEAN may subscribe and accede to such a treaty. Under Protocol II, superpowers will be asked to sign the protocol in order to guarantee the region its peace, freedom and neutrality and so on.

There are several types of participation where other states will be asked and invited to accede to the treaty or to its protocols in order to strengthen this zone of peace, freedom and neutrality. This is the mechanics of such types of treaties, Mr. Presiding Officer.

MR. GASCON. So, we shall relate with these other countries, Mr. Presiding Officer?

MR. AZCUNA. Definitely, Mr. Presiding Officer.

MR. GASCON. One final point on this issue. Much has also been said on this issue of the bases agreement being null and void. I will not touch on that really, but is it not true that Article 56 of the Vienna Convention of the Law on Treaties expressly allows unilateral denunciation or termination in two instances, namely: 1) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or 2) a right of denunciation or withdrawal may be implied by the nature of a treaty? So, a unilateral denunciation is a possibility.

MR. NOLLEDO. Yes, Mr. Presiding Officer, the Gentleman is right.

MR. GASCON. Especially assuming that a treaty is null and void.

MR. NOLLEDO. Yes.

MR. GASCON. Is it not also true that when an agreement does not contain any provision regarding denunciation or termination, such as the military bases agreement, it follows that there could be a unilateral denunciation?

MR. NOLLEDO. That is a possibility under the principle of *rebus sic stantibus.*

MR. GASCON. Thank you, Mr. Presiding Officer.

MR. ABUBAKAR. Mr. Presiding Officer, for a few minutes only.

THE PRESIDING OFFICER (Mr. Maambong). With the permission of the Commissioners in debate, the Chair recognizes Commissioner Abubakar. What is the pleasure of the Gentleman?

MR. ABUBAKAR. Just a few questions of Commissioner Garcia.

Historical narratives have pointed to us, in matters of foreign relations, as well as perspectives for the future, that treaties, agreements, adhesion to a policy of peace would not guarantee that we will not entangle in war or in conquest. This has been demonstrated in history.

Are we going to rely on the defense of the Philippines, its security and its prospect merely on a treaty obligation with other nations which declared and formulated a policy of peace and neutrality?

MR. AZCUNA. No, Mr. Presiding Officer. The idea is that a neutral state or a zone of neutrality does not mean that we will rely on the guarantees of outside powers. The idea precisely of a modern neutrality is that of a neutral zone that is able to defend itself. There should be development of our capability to defend ourselves, our country and the ASEAN region. So, while there can be no guarantee that any neutral state will not be violated, the idea of a neutral zone is something new.

In the past, there were neutral countries but not neutral groups of countries. The idea now would be a bigger zone where we have several states forging themselves together into a zone of peace, freedom and neutrality, thereby enhancing and combining their capabilities to defend their region in case of attack. So, there is synergy and better chances against violation of their neutrality, Mr. Presiding Officer, but there is no guarantee in this life. One cannot seek full guarantees even in this area.

MR. ABUBAKAR. But does the Commissioner agree that even if there is a group of committed countries that will adhere and preach the nobility of the principle of neutrality or nonintervention or nonalignment, this will not defend the position of the Philippines or any of its neighboring countries to which it is involved in partnership?

MR. AZCUNA. It is not a 100-percent guarantee, Mr. Presiding Officer, but as I said there is the synergy involved where we mutually put our forces together in order to defend the zone. It is not self-executing. It is not something that will happen tomorrow. That is why we say we strive towards this as a goal, as a direction. We should achieve a zone that is defendable, not a zone that is vulnerable. If we cannot establish that kind of a zone, then we should not, but we should strive to give it a chance. We should go towards that direction. The Declaration of Principles and State Policies seeks to provide basic directions and tells the government to go this way and try to pursue that goal because it is worth pursuing.

MR. ABUBAKAR. Mr. Presiding Officer, if the Commissioner is playing a poker game, as most countries are in their foreign policy, he does not show his hands. In our Constitution, this type of provision has never appeared, except in the present proposal. One keeps his hands close to his breast and during exigencies and moments when dark clouds of conflict develops, then he can formulate his position. But first one must be prepared.

I would rather say that we put our trust and our capacity to defend this beautiful and sacred land in our own hands first, in the military competence and ability of our friends and neighbors. In this respect, whether the countries would believe or abide by our profession of peace and regional security, our hands are strong enough in case there is a subterfuge or charge to undermine this unity and our capacity to defend ourselves.

I would, therefore, stress that as far as foreign policy is concerned, it is flexible; it changes; it is modified maybe from year to year. So, why should we reveal our hands, if we are playing a poker game? Let us keep it to ourselves; let the leaders decide; they have all the facts. Let us not insert this kind of a proviso in the Constitution. Why should we tell the world what we think or what we believe in when the life of the nation would in the future be endangered? So, let us keep our peace to ourselves. Let our hands be in our heart and let us develop the strength that on our own, as well as with the alliance of the other neighboring countries to which we are friends, especially the ASEAN, we would be able, at the appointed hour and when our security is threatened, to defend ourselves.

MR. AZCUNA. The committee is grateful for the suggestions and observations of the Honorable Abubakar. We will take this into account at the proper time in the period of amendments, Mr. Presiding Officer. The Commissioner's suggestions and observations are evident from his years of experience in the diplomatic service.

MR. ABUBAKAR. Thank you.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Gascon still has the floor; he may proceed.

MR. GASCON. Thank you, Mr. Presiding Officer.

I would like to proceed now to Section 6, lines 11 to 13. It states:

> The people and the government shall defend the State and in the fulfillment of this duty all citizens may be required by law with due regard to objections of conscience, to render personal military or civil service.

I have two questions, Mr. Presiding Officer. The first is on the phrase "with due regard to objections of conscience." What does "objections of conscience" contemplate and what can be included in this?

MR. AZCUNA. "Objections of conscience" are sincere beliefs based on religion or even personal convictions that one should not kill or take away life under any circumstances and, therefore, this is used as a reason for not being conscripted into the military service. Because we speak here of a law requiring citizens to render service, we are just asking, not necessarily to sustain them, that due regard be given to them so that sincere and conscientious objectors be given substitute service or noncombatant duties as much as possible. There is no guarantee that they will not face combat duties in war. As it often happens, war is won by remnant forces. In war, sometimes, it is the kitchen brigade that wins the last battle. So even those assigned to the kitchen may have to take up the arms when necessity demands. So the term "due regard" does not mean that they will not fight.

MR. GASCON. So, Mr. Presiding Officer, this does not limit itself to religious conviction if it is possible.

MR. AZCUNA. No, Mr. Presiding Officer, because some of them do not have any religion but they have personal convictions.

MR. GASCON. This provision speaks of times of war, Mr. Presiding Officer. Does this also speak of times of peace?

MR. AZCUNA. This may be in times of peace, Mr. Presiding Officer, where there is an emergency because, as the Commissioner knows, we do not declare war but we can declare a state of war. So even prior to a declaration of a state of war, there may be a need to require citizens to render personal military or civil service.

MR. GASCON. Mr. Presiding Officer, I ask that question because many of the students whom I represent have been against the National Service Law which at this point in time is shelved. I am also now against this compulsory military training which is a direct result of the National Defense Act or Commonwealth Act No. 1, which is a 50-year old law. Their point is, first, we have quite a huge armed force; and second, they believe that their time could be best directed into other more productive efforts outside of citizens military training or citizens army training. Also, both high school and college students are clamoring for review and repeal of this act. I would like to know what is the contemplation of the Commissioner with regard to this provision as it relates to the National Defense Act, which by the way was good in 1946 because we were preparing then for eventual political independence. So we were preparing an armed force of our own, not dependent on the United States. But that has been 50 years past. We have a 200,000-strong armed force now and many students are questioning the validity of this law at this point in time, Mr. Presiding Officer. So I wonder if the committee will give the students some hope for its repeal come Congress.

MR. AZCUNA. Yes, Mr. Presiding Officer. This has not been raised to that extent at the committee level. I personally have participated in the move to repeal the decree on the National Service Law. I have studied both the decree as well as Commonwealth Act No. 1. The one that is objectionable is really the decree, not so much Commonwealth Act No. 1 because there is a need for military training. However, it should be limited to military training and not indoctrinate the students into one type of ideology or another. The citizens, for instance, should be trained on how to assemble or disassemble a gun, how to throw a grenade. I think that is the type of training that we need in order to defend ourselves. We should leave to the schools and to the parents the right to decide what subjects they should take and what kind of thoughts they should be encouraged to think. In other words, education or the formation of character is the primary right of parents and the school, who are *en loco parentis*, in place of parents. However, there is the duty to defend the State, therefore, there is a need to train citizens to be able to fulfill this duty. So, there is room for military training, Mr. Presiding Officer, but in that context there should be a proper law which should not violate the right of the school and parents to the formation of the character or education of the children.

MR. GASCON. Mr. Presiding Officer, I said this because many of those who were against the National Service Law are now directing their effort in proposing an alternative bill to the National Defense Act. My whole point is, this provision will not stop the eventual passage of a new law which would repeal the National Defense Act and make military training optional and other types of services as additional components to that whole concept of service to the country. This does not preclude that.

MR. AZCUNA. It will not preclude upgrading the National Defense Act, Mr. Presiding Officer; maybe it needs to be upgraded or revised. However, I doubt whether we should leave military service on a voluntary basis. I know only of one country that does that, and that is the United Kingdom and it is very hard to imitate the British. They say the British are always willing to die for you but they will never live with you. They are so different.

I believe, until we reach that level of consciousness and social awareness, Mr. Presiding Officer, we will have to have a draft.

MR. GASCON. I have nothing against the draft; my point is the optional military training in schools.

MR. AZCUNA. Yes. That can be governed by law. In Switzerland, for example, the Swiss army is a model; they spend one year away from school and train with the army. After that they spend one month every year to refresh. Such types of arrangements may be looked into as we revise the National Defense Act.

MR. GASCON. Thank you, Mr. Presiding Officer.

MR. DE CASTRO. Apropos of this military training, I am sorry I was out when this interpellation started. Under the General Provisions, we have a provision for a citizens armed force, meaning, all those of military age shall be trained for a citizens armed force, the reason being that our finances cannot continuously finance a large armed force, and it must be from the citizens. The citizens armed force is a concept under Commonwealth Act No. 1. It is also patterned after that of Switzerland where the armed forces are all citizens.

I think the Gentleman is questioning Section 6?

MR. GASCON. That is correct, Mr. Presiding Officer.

MR. DE CASTRO. It is the duty really of every citizen to defend his country.

MR. GASCON. No objections, Mr. Presiding Officer.

MR. DE CASTRO. And in so doing, one can be required by the government to render civil or military service unless we like to get our rights from the State without serving the State. That is the whole concept of the duty of every citizen to serve his country in civil or in military status.

When we go to the citizens armed force, one must perforce have a training. That is why under Commonwealth Act No. 1, there is what we call the trainee instruction for six months for those who are 20 years old. In college, students are given two years basic training. If one wants to rise as an officer like Commissioner Maambong, then one has to proceed to four years ROTC training to have the status of an officer, unlike the two years of basic training. I think we can discuss this more fully when we reach the General Provisions on the armed forces.

MR. GASCON. Yes, Mr. Presiding Officer.

MR. DE CASTRO. Thank you.

MR. GASCON. Thank you, Mr. Presiding Officer. My whole purpose is just to assure that hopefully the future Congress will make the citizens army training or citizens military training optional and provide other options outside of that. That is all, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). May the Chair inquire from Commissioner Gascon if he still has plenty of questions?

MR. DE CASTRO. Mr. Presiding Officer, please.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. Just a word. Does the Gentleman intend to have the military training optional?

MR. GASCON. Not here in the Constitution, Mr. Presiding Officer, but I do hope that some Congressmen will file a resolution in Congress to that effect.

MR. DE CASTRO. When we include in the Constitution the citizens armed force – the theory of our military establishment is a citizens armed force – perforce everybody will have to go to training or otherwise, we cannot form a military organization without training. So if we make this optional, it is possible that we will have no armed forces because everybody will say: "I do not like to be in the military service." The concept really is for every citizen to serve his country in the form of a citizen army.

MR. GASCON. Yes, Mr. Presiding Officer. Maybe at the proper time, we can discuss that more thoroughly.

THE PRESIDING OFFICER (Mr. Maambong). Will Commissioner Gascon please respond to the query of the Chair if he still has plenty of questions.

MR. GASCON. Yes, Mr. Presiding Officer, in other sections; about five more sections.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). In that case, the Chair suspends the session for five minutes.

It was 5:57 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Gascon be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Gascon still has the floor; he may proceed.

MR. GASCON. Thank you, Mr. Presiding Officer.

I have one last question on Section 6 with regard to the term "civil service." I have received a letter from students asking that to avoid confusion between the words "civil service" which we used here and the "civil service" when we refer to government employees, it be changed to "CIVIC service." Is there a possibility that such be changed so that when we speak of "civil service," it does not imply this connotation of the Civil Service Commission, for example, and instead, it would imply various forms of civic service such as social work, volunteering in relief work, volunteering in conservation of natural resources, helping in the preservation of wildlife, et cetera? What does the Gentleman think, Mr. Presiding Officer?

MR. AZCUNA. Commissioner de Castro desires to answer.

MR. DE CASTRO. The Commissioner may propose that during the period of amendments. We will consider it.

MR. GASCON. So it is a possibility, Mr. Presiding Officer. Thank you.

Section 8, line 21 states: "The State shall intensify efforts to promote social justice in the pursuit of national development objectives." May I know, Mr. Presiding Officer, why the issue of promotion of social justice is linked with "the pursuit of national development objectives." Can it not be a simple statement by the committee and by the Commission that we shall intensify efforts to promote social justice and not necessarily link it to the pursuit of national development objectives? I have no objections. My problem is how to emphasize that social justice is a means and an end in itself, Mr. Presiding Officer, and not merely a means towards achieving national development objectives. It seems that we are promoting social justice because of the end of national development when in my point of view, it might be correct or human to emphasize that we shall promote and seek social justice as an end in itself.

MS. ROSARIO BRAID. Yes, Mr. Presiding Officer, during the period of amendments, maybe the Commissioner could propose this amendment. I think what we shall try to do is to state this in very general principles and to harmonize it with the other provisions so that what would appear here will be more of a general principle and that would be accommodated in the final redrafting.

MR. GASCON. Thank you, Mr. Presiding Officer.

So, the Commissioner perceives the issue that when we seek social justice, it is not merely a means to achieve national development objectives but as an end in itself.

MS. ROSARIO BRAID. Yes, Mr. Presiding Officer.

MR. GASCON. So, the Commissioner agrees, Mr. Presiding Officer. Thank you.

With regard to Section 9, I would like to ask a question of Commissioner Villegas, if he is still here.

MR. AZCUNA. Commissioner Villegas is not in the hall at the moment, but the committee will be willing to answer.

MR. GASCON. Thank you, Mr. Presiding Officer.

As I mentioned in my speech on the U.S. bases, I am definitely pro-life, to the point that I would like not only to protect the life of the unborn, but also the lives of the millions of people in the world by fighting for a nuclear-free world. I would just like to be assured of the legal and pragmatic implications of the term "protection of the life of the unborn from the moment of conception." I raised some of these implications this afternoon when I interjected in the interpellation of Commissioner Regalado. I would like to ask that question again for a categorical answer.

I mentioned that if we institutionalize the term "the life of the unborn from the moment of conception," we are also actually saying "no," not "maybe," to certain contraceptives which are already being encouraged at this point in time. Is that the sense of the committee or does it disagree with me?

MR. AZCUNA. No, Mr. Presiding Officer, because contraceptives would be preventive. There is no unborn yet. That is yet unshaped.

MR. GASCON. Yes, Mr. Presiding Officer, but I was speaking more about some contraceptives, such as the intra-uterine device which actually stops the egg which has already been fertilized from taking route to the uterus. So, if we say "from the moment of conception," what really occurs is that some of these contraceptives will have to be unconstitutionalized.

MR. AZCUNA. Yes, to the extent that it is after the fertilization, Mr. Presiding Officer.

MR. GASCON. Thank you, Mr. Presiding Officer.

My second question is with regard to the population program. How would this provision affect the existing population program being implemented by the Population Commission? Second, if there is an approval of this provision here, because Commissioner Villegas said that he shall make a motion for deletion of that provision on population at the proper time, does it necessarily mean that the provision in the General Provisions Article on population will have to be deleted?

MR. NOLLEDO. Mr. Presiding Officer, not necessarily because family planning is consistent with the provision in Section 9 that there should be protection to the unborn. Before this proposed provision was formulated, taking into account the pertinent provision of the 1973 Constitution, family planning would include preventive pregnancy and even killing the fertilized ovum. But now, if we adopt the second sentence of Section 9, family planning would refer respectively only to preventive pregnancy as stated by Commissioner Azcuna.

MS. ROSARIO BRAID. Also, at the proper time, in the General Provisions, we will discuss the population policy. The Commissioner will note it is no longer population control but population policy, which means that there are other ways of limiting population such as economic development, improving the education of women which is an indirect means of population control; or as in the case of Singapore, at one time it had a 1-2 child policy, but today they realize that they need to increase their population. And so, their population policy now is to have more children, whereas, 10 years ago they were limiting; they are now increasing. So, population policy would, therefore, mean that at a certain time when our population shall have stabilized, we can even have a policy towards increasing population. We will discuss this at the appropriate time in the General Provisions.

MR. GASCON. So, Mr. Presiding Officer, what this provision merely implies is that there will be certain programs as they are being implemented now which will have to be stopped, but not the whole program itself.

I have one last point on the issue of abortion, Mr. Presiding Officer. Have there been studies made with regard to the issue of the legalization of abortion being directly proportional to the population rate of other countries? I notice that in the past, about five or ten years ago, the trend was towards world population control program in industrialized countries; but now because they have succeeded, in one way or another, through population control programs or through legalization of abortion, they have a problem of a lull in their birth rate to the point that they are, as mentioned already, encouraging more births than discouraging births.

MR. AZCUNA. Yes, Mr. Presiding Officer, with respect to population policy, the studies have been made but the correlation coefficient is not conclusive. Suffice it to say that what is known as ZPG, zero population growth, is somewhere at 2.2 percent, the .2 percent being what is required to replace in addition to the father and the mother who do not reproduce, like the celibates. At 2.2 percent, population is maintained at its present level regardless of natural attrition. So, if a country falls below 2.2 percent in population growth, then it is actually decreasing in number. It is below zero population growth. Also, what is important in demography is what is known as the net reproduction growth rate; that is, the number of girls who will be born and who will bear children. That is very important. It is not just the number of population growth rate; it is the net reproduction growth rate – the number of girls that are born and will bear children.

MR. GASCON. So, abortion does not have any direct relation to population growth.

MR. AZCUNA. As I said, the studies are not conclusive on the correlation coefficient.

MR. GASCON. Thank you, Mr. Presiding Officer.

Section 10 provides:

> The State recognizes the vital role of the youth in nation-building and shall promote their physical, moral, spiritual, intellectual and social well-being. For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

I have filed a resolution containing this essence. I do not hope the resolution was one of those considered when the committee discussed this provision. One additional concept which I have included in my resolution which is not here is "representation." It reads: "The State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation AND SHALL FURTHER GUARANTEE THEIR REPRESENTATION IN THE POLICY-MAKING BODIES OF GOVERNMENT." If we analyze seriously the number of youth in our country today between ages zero to 24, they comprise 61 percent of the total population; 31.75 million, in fact, of the 52 million in 1983, or 61.06 percent. If we are to be true to the idea that indeed the youth plays a vital role in nation-building and as future leaders of our country, their representation must be granted. It might be said that guaranteeing representation to the youth would mean that representation should also be given to other sectors and I have no arguments there. But considering the reality that our population is a very young population, should we not include in our Declaration of Principles on the provision on the youth a guarantee that they shall be represented, Mr. Presiding Officer?

MR. AZCUNA. We will entertain proposals to that effect during the period of amendments, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, I would say that – because I am the author of the second paragraph of Section 10 – representation of the youth should already be deemed covered by or included in the involvement in the affairs of the nation.

MR. GASCON. So long as that is clear, Mr. Presiding Officer. When we speak of involvement, that is an assurance to the youth that they shall be adequately represented and shall be consulted in the affairs of the nation. Perhaps, we could include categorically "involvement and representation" in the affairs of the nation.

MR. NOLLEDO. That concept is included.

MR. AZCUNA. We will welcome a proposed amendment, Mr. Presiding Officer.

MR. GASCON. Thank you, Mr. Presiding Officer.

With regard to Section 12:

> The State affirms the primacy of labor as a social and economic force and shall foster their welfare and protect their rights, subject to the corresponding claim of capital to reasonable growth and returns.

When we speak of the primacy of labor in relation to capital, what does the committee contemplate when it used the words "subject to the corresponding claim of capital" if indeed we are to be true to that basic statement that there is primacy to labor?

MR. AZCUNA. Mr. Presiding Officer, the words "subject to" are being deleted. We refer the Commissioner to yesterday's Journal, page 11.

MR. GASCON. I see. Thank you.

MR. NOLLEDO. The members of the committee have decided to delete those words.

MR. GASCON. So, how does it read now, Mr. Presiding Officer?

MR. AZCUNA. It shall be a period after "rights."

MR. GASCON. Thank you, Mr. Presiding Officer. That is all for the moment.

MR. AZCUNA. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, there are no more registered interpellators except one reservation. So, before we adjourn, I move that we close the period of sponsorship and debate and interpellations with one reservation.

Commissioner Ople would like to speak tomorrow. He is too tired now.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection to the motion with the reservation? *(Silence)* The Chair hears none; the motion is approved.

The Floor Leader is recognized.

MR. GASCON. Mr. Presiding Officer, does that mean that outside of Commissioner Ople, no one else can ask questions? What if tomorrow there are new questions which may arise?

MR. RAMA. In the period of amendments.

THE PRESIDING OFFICER (Mr. Maambong). That is the understanding of the Chair. As a matter of fact, the Presiding Officer is listed in that list of the Floor Leader. But with that motion that has been approved, it is only Commissioner Ople who will speak tomorrow.

ADJOURNMENT OF SESSION

MR. RAMA. Mr. Presiding Officer, I move for adjournment until tomorrow at nine-thirty.

THE PRESIDING OFFICER (Mr. Maambong). There is a motion to adjourn.

Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until tomorrow morning at the usual hour.

Reportedly, typhoon signal no. 2 has been raised in Manila.

It was 6:34 p.m.

R.C.C. NO. 86

Thursday, September 18, 1986

OPENING OF SESSION

At 9:56 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Lugum L. Uka.

Everybody remained standing for the Prayer.

PRAYER

MR. UKA. Bismillah Ir Rahman ir Rahim.

Most Merciful and Compassionate Almighty God, we who are gathered here humbly ask for Thy Mercy, love and guidance to enable us to write a constitution that shall bring about unity, democracy, justice, peace and prosperity for all our people, Muslims, Christians and tribal communities alike.

As we approach the last days of our great mission in writing the fundamental law of our land, we ask Thee, O God, to guide us to be patient and tolerant of each other's views that we may succeed in our great mission. Help us to follow Thy Ten Commandments, among which is "Thou shalt not kill."

Inspire us, O God, with the noble thought that we are all members of one great family with a common goal or objective in making our dear country a worthy member of the family of nations.

We thank Thee, O God, for all the inspiration and guidance You have given all of us during all our plenary sessions and we are happy with the thought that with Your guidance, we shall succeed in our great mission. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present*	Nieva	Present
Aquino	Present*	Nolledo	Present
Azcuna	Present*	Ople	Present
Bacani	Present	Padilla	Present*
Bengzon	Present	Quesada	Present*
Bennagen	Present	Rama	Present
Bernas	Present	Regalado	Present
Rosario Braid	Present	Reyes de los	Present
Calderon	Present*	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present	Rosales	Present*
Davide	Present	Sarmiento	Present*
Foz	Present	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present	Tadeo	Absent
Guingona	Present	Tan	Present
Jamir	Present	Tingson	Present
Laurel	Absent	Treñas	Present
Lerum	Present	Uka	Present
Maambong	Present*	Villacorta	Present*
Monsod	Present	Villegas	Present

The President is present.

The roll call shows 32 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. RAMA. Madam President, I move that we approve the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

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*Appeared after the roll call

MR. RAMA. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from Phan Quang Dan, MD, DrPH, Former Deputy Premier of South Vietnam, P.O. Box 11452, St. Thomas, US Virgin Islands 00801, USA, expressing his opinion that too frequent elections tend to destabilize the political conditions and make it difficult for the Executive to implement its programs, suggesting therefor that a presidency of two seven-year terms might be the best formula to consolidate stability.

(Communication No. 923 – Constitutional Commission of 1986)

To the Committee on the Executive.

Letter from Mr. Antonio C. Pastelero, 5th Floor, Alexander House, 132 Amorsolo St., Legaspi Village, Makati, Metro Manila, proposing that in submitting the new Constitution, the choice should not be limited to ratifying or rejecting it, but on whether our people prefer to return to the 1935 Constitution, or to adopt the new one.

(Communication No. 924 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Letter from one R.A. Tuvilla of Davao, suggesting that in order to enhance the easy approval of the proposed Constitution during the plebiscite, a question should also be asked whether or not they favor President Aquino to continue in office as President of the Philippines.

(Communication No. 925 – Constitutional Commission of 1986)

To the Committee on Amendments and Transitory Provisions.

Communication from Mr. Eugenio A. Antonio, Jr., Chapter Commander, First District of Negros del Norte Chapter, Veterans Federation of the Philippines, submitting the Federation's Resolution No. 04-86, requesting the exclusion or deletion from the draft Constitution the issue of the removal of the American bases in the Philippines after 1991.

(Communication No. 926 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Letter from one Nitnit Mongaya-Hoegsholm, Strandhojsvej 12, 3050 Humlebaek, Denmark, urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines.

(Communication No. 927 – Constitutional Commission of 1986)

To the Committee on General Provisions.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. I move that we continue the consideration of Proposed Resolution No. 537 on the Article on the Declaration of Principles.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, the parliamentary situation is that the period of interpellations has been closed except for a reservation made by Commissioner Ople. So I ask that Commissioner Ople be recognized.

THE PRESIDENT. The Chair requests the honorable chairman and members of the Committee on Declaration of Principles to please occupy the front seats.

We will extend to Commissioner Ople the same privilege granted to the other Members in the previous days of interpellations, with a request, however, that we abbreviate as much as possible the speeches and also the replies of the members of the committee. In other words, the issues that had already been discussed and brought to the floor can just be omitted so as to abbreviate our proceedings.

MR. OPLE. Thank you, Madam President.

Sections 1, 2, 3 and 4 of the committee report on the declaration of principles are closely interrelated and undoubtedly linked together in the perception of the sponsoring committee. I think basically they deal with two paramount issues – national security and national sovereignty. So far, the record of the debates shows that

Members of the Commission who have participated differ in their fundamental perceptions of sovereignty and security. These differences must be seen against the contemporary historical realities in which we live and act out our respective individual political beliefs, including the very prestige of this constituent assembly.

As far as a great many of our countrymen are concerned, these realities can be summed up in one word – the threat of a communist takeover of our country. Let us not deny that this threat looms large in the minds of many of our countrymen. This is considered an imminent danger that our people already react in two ways: fight or flight.

Many in the middle class have already sent their families to the United States and others are holding their visas close to their chest, just in case. Young officers of the Armed Forces of the Philippines are getting restive, as they receive reports of their one-sided casualties in the field when they are told to fight defensively while the government promotes an atmosphere of conciliation and restraint during the ceasefire negotiations. Just the other day, past midnight, 150 NPA troops raided an army detachment, wounded several soldiers, burned the headquarters and got off with some 20 armalites in San Pablo City, which is about 80 kilometers away from where we are.

Last Sunday, Mr. Enrile told me – but I am sure he will deny this – that if the government continues the policy of coddling the communists and if General Ramos chooses to be wishy-washy, he can be rapidly isolated in his own army.

The young officers are already talking of "Remember Jakarta" as their future slogan. That was the signal written all over the world since Santiago de Chile before the uprising against Aliende. We will remember what happened in Indonesia in 1965, where after six generals of the Indonesian army were assassinated by the communists, the whole of Indonesia rose up, as though on signal, and massacred 600,000 of their own countrymen. This is probably a fallacious hope on the part of these young officers. There is a big difference. In 1965, the Indonesian PKI, the Partai-Komunist Indonesia, was the world's largest communist party but it had no army. They have forgotten that the CPP has an army.

I am taking advantage of this debate, therefore, Madam President, and also by way of laying the premise for my interpellation, to bring to the Commission's attention how people feel about the communist threat. Some of these reactions might be utterly irrational, but they do frame in some way our debate on the bases, neutrality and a nuclear-free territory. We debate on these issues in an atmosphere of nascent civil war, Madam President. For both sides, the bases are larger than life. They are code words for many differences, the sharpest, in the formulation of Commissioner Guingona, being that between democracy and communism. On the other hand, we know what is going on in the opposite camp. Part of the new freedom is that we can learn about the thinking of the CPP and the NDF through their own publications. The CPP, NPA and NDF have just concluded a massive self-criticism and rectification campaign arising from their boycott of the February election and the February revolution. Messrs. Baylosis and Salas have already said their *mea culpa* for this.

I would like to quote from a discussion paper written by Marte Villalobos, dated March 30, 1986, a sequel to his more famous piece, "Where the Party Faltered." He said the party, instead of missing the February election and the February uprising at EDSA, could have followed a two-stage scenario, a sort of wisdom by hindsight as follows, and I quote:

> While the CPP-NDF were preparing for the leap, in the next few years, into the next substage of the strategic defensive, that is to say, the strategic counteroffensive, the Marcos fascist regime was toppled in three months!
>
> There can perhaps be no evidence more damning than this – that the Party was pursuing an incorrect strategy, that the Party's strategy was out of sync with concrete reality.
>
> In a two-stage Philippine insurrectional movement, the first stage ends in an uprising or insurrection or a series of uprisings. Thousands are killed or captured. The anti-Marcos forces are unable to seize power, but the bloody repression polarizes the entire country and the left assumes undisputed leadership in the broad antidictatorship front. The second stage culminates in the downfall of the US-Marcos regime. A democratic coalition government (mainly of left and middle forces) is established under left leadership.
>
> Under either scenario of a Philippine insurrectional strategy, the left would have increased its momentum and leverage for eventual seizure of power. It would not have lost the momentum and leverage it lost after the February 1986 uprising, by following a protracted people's war strategy that was no longer attuned to the concrete reality.

Madam President, in general, the debate within the CPP and its front organizations now revolves around the issue of protracted people's war – to what extent this should be sustained or discarded. According to this theory, which is Maoist in origin, the cities are encircled from the countryside. But the so-called "insurrectional approach," the successful Nicaraguan Sandinist approach, provides that mass movements that are urban-based shall have the primary role and the guerrilla forces merely perform a supporting role. What is discernible to me from all this literature is that Maoism is now losing to classical Leninism in the CPP-NPA. According to the journalist Ross Munro, the International Department of the CPSU (Communist Party of the Soviet Union) Secretariat in Moscow continues to support the old Partido Komunista ng Pilipinas mainly for sentimental reasons, but the intelligence community is pressing for a coalition of the old Lava group and the CPP-NPA. I have a reliable report that Jose Ma. Sison and the Lavas recently conferred in Bulacan, Bulacan, which is the hometown of Commissioner "Soc" Rodrigo.

Such a meeting, if there was, could be one of the decisive moments in Philippine history. This can pave the way to foreign intervention and escalate the threat to our security in a new, qualitative leap. No wonder Senator Jose W. Diokno was quoted by Mr. Munro, after Mr. Diokno left one of the important organizations, which is generally regarded as a front of the CPP, as saying that the communists believed they are so close to victory, they could already take their nationalist alliances for granted. I must say, of course, in fairness to the Soviets that they miss no opportunity to profess their adherence to noninterference in internal affairs of other countries as an anchor of their foreign policy. Soviet government, as far as I observe, has been correct and circumspect in its actuation in the Philippines. But we are speaking of what the authors of one resolution previously turned down by the Commission called, and I quote: "the cold realities of international politics."

Mr. Gorbachev, in his now famous July 28 speech in Vladivostok which was referred to by Commissioners Garcia and Gascon yesterday, acknowledged the very issue facing us in this Commission. I was almost prompted to accuse him of foreign interference in the internal affairs of a friendly country. He said the Philippines was a medium power strategically located from the standpoint of geopolitics. He said if the U.S. left the Philippine bases, that is to say, if we approve Section 3 of this draft article, this gesture will not go unanswered. In his interpellation yesterday, Commissioner Gascon drew from Commissioner Garcia the obliging answer that this statement of Mr. Gorbachev should be taken seriously; that if we approve Section 3 and the U.S. forces have to leave, this can begin the process of demilitarization of Southeast Asia and peace in the region might be assured.

What else did Mr. Gorbachev say in Vladivostok? He said the Soviet Union favored a nuclear-free zone in Southeast Asia. In the case of the South Pacific, he said, "We are ready to sign a protocol even tomorrow." And, of course, he said he would withdraw some regiments from Afghanistan and also from Mongolia on the border of the Soviet Union with China, but he said nothing whatsoever about the pullout of his friendly troops from Kampuchea.

Madam President, that is one reason I would like to leave the options on the bases to the Philippine government. A government has to be more skeptical and more rigorous in the standards of appreciation of such pronouncements from other states. They have to study these assertions thoroughly before they act. They should not take the word of a great power at face value.

The Commission, Madam President, is divided, therefore, between two world outlooks. There is a school of thought that believes communism is not a threat, and that the threat comes from the Armed Forces of the Philippines. This school is largely indifferent to any changes in the global and regional power balance, but will not mind if the U.S. superiority is eclipsed by the Soviet Union. They perceive national security in a different way from some other Filipinos. For many of us, national security means we should not fall to the communists or even to a national democratic coalition, a Sandinista regime in Malacañang in the first stage of a CPP takeover of power. For others among us, I am speaking of Filipinos in general and not of the Members of this Commission, a Sandinista regime might be a consummation devoutly to be wished.

With these premises, Madam President, I would now like to put a few questions to the committee, with your kind indulgence.

THE PRESIDENT. The Commissioner will please proceed.

MR. OPLE. I see that Section 1 is largely a repetition of the original text of the 1935 and the 1973 Constitutions, except for a few changes. The Committee added the word "democratic" to "republican," and, therefore, the first sentence states: "The Philippines is a republican and democratic state." In the second sentence, the same phrase from the 1935 and 1973 Constitutions appears:

> Sovereignty resides in the people and all government authority emanates from them and continues only with their consent.

May I know from the committee the reason for adding the word "democratic" to "republican"? The constitutional framers of the 1935 and 1973 Constitutions were content with "republican." Was this done merely for the sake of emphasis?

MR. NOLLEDO. Madam President, that question has been asked several times, but being the proponent of this amendment, I would like the Commissioner to know that "democratic" was added because of the need to emphasize people's power and the many provisions in the Constitution that we have approved related to recall, people's organizations, initiative and the like, which recognize the participation of the people in policy-making in certain circumstances. Also, this was added to assert our respect for people's rights as against authoritarianism or one-man rule. I know that even without putting "democratic" there, democracy is reflected in the characteristics of republicanism; namely, among others, the existence of the Bill of Rights, the accountability of public officers, the periodic elections and others.

MR. OPLE. I thank the Commissioner. That is a very clear answer and I think it does meet a need. I felt I should ask the question, however, because the meaning of democracy has been evolving since 1935. In the old days, it was taken for granted that democracy stood for liberal democracy. I think democracy has since expanded in its scope to include also concepts of national democracy which is what the National Democratic Front stands for – social democracy which is just a synonym for democratic socialism and liberal democracy which is the brand more immediately recognizable to many Filipinos.

Does the word "democracy" in this context accommodate all the nuances of democracy in our time?

MR. NOLLEDO. According to Commissioner Rosario Braid, "democracy" here is understood as participatory democracy.

MR. OPLE. Yes, of course, we can agree most wholeheartedly on that construction of the word.

May I proceed to Section 2. In Section 2, we again adopt the text of the 1935 and 1973 Constitutions, renouncing war as a national policy, but the committee has been speaking throughout of the demilitarization of the Philippines and Southeast Asia as an objective. Commissioner Garcia, in reply to Commissioner Gascon yesterday, said that if the Americans leave the bases in the Philippines presumably because we will approve Section 3 of this draft article, then Mr. Gorbachev would respond in accordance with his Vladivostok blandishment; how, he did not say so explicitly, but the hint was that this would not go unanswered and there could be some movements out of Cam Ranh Bay.

Does renouncing war, in the belief of the committee, as a national policy mean that we should demilitarize unilaterally? Let us take the word of foreign powers on faith that they will reciprocate if we do so and that neutrality is postulated by the committee as a condition *sine qua non* for sovereignty and independence.

MR. NOLLEDO. If I were to answer that, Madam President, the Commissioner will remember the Kellogg-Briand Pact which condemns aggressive war but does not condemn defensive war. So if we interpret this in the light of the Kellogg-Briand Pact which was the basis of this provision as adopted in the 1935 and 1973 Constitutions, then only aggressive war is condemned. We do not do away with defensive war. So if I were to state without binding the committee, we do not necessarily talk of demilitarization because demilitarization may negate the possibility of waging a defensive war.

MR. OPLE. I am very reassured by the answer of Commissioner Nolledo which merely means that we renounce war as a national policy. We have done so in the 1935 and 1973 Constitutions, but this is not equivalent to saying that we are obliged to dismantle, diminish or downgrade our military capability as part of our renunciation of war.

I would like to proceed now to Section 3, Madam President, which states:

> The State shall pursue an independent course in sovereign relations and strive to promote and establish, together with other States agreeable thereto, a zone of peace, freedom and neutrality in this part of the world.
>
> The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

In this formulation of Section 3, especially the first paragraph, Madam President, the idea of an independent foreign policy is linked to the pursuit of neutrality. I would have to revert to that earlier question in the context of the first paragraph. Does the committee postulate neutrality as a condition for an independent foreign policy? May I define "neutrality," Madam President.

Actually, the literature utilizes three terms: Neutralism – India is a neutralist but not neutral. Neutrality – The Swiss are neutral since 1815 because a concord of great powers in Europe guarantees that neutrality and independence, but the Swiss do not belong to any non-aligned movement and, therefore, they are neutral but not neutralist. The third is neutralization – for example, the Swiss Canal is neutralized by a general agreement of the powers for their own common benefit and individual convenience.

Under the neutrality laws which have been accumulating since the 17th century, especially with respect to neutrality in the maritime field – we have one of the foremost authorities on public international law seated in the sponsoring committee who undoubtedly must be familiar with this accretion of laws on neutrality – a neutral state is not necessarily obliged to even issue a statement of neutrality at the outbreak of a war. But it is obliged not to aid any of the combatants and to pay damages if there is a violation by its own citizens of the neutrality act of that country.

The record, however, shows that since World War I, with the transformation of war into wars of annihilation of thousands and millions of people, neutral countries had fared very ill in terms of the respect that they were able to exact from the belligerent power. Let us take for example Belgium. It was a neutral state. It was overrun in World War I and was overrun again in World War II. I suppose a lot depends on the location. Belgium is part of the Benelux, the so-called low countries, and it stands right there in the path of the advancing armies, whether from the West or from the East.

In the case of Switzerland, Madam President, I have some little knowledge of this country. It has one of the most formidable armies in Europe. It has a population of only five-and-a-half million or six million, if we include the expatriate workers. But this is a country capable of summoning in 48 hours half a million of the best trained and the best armed troops in Europe. Surrounded by their own walls of mountains with very narrow and very few passes to the rest of Europe, this country had successfully preserved its neutrality, not because of the guarantees of the powers since 1815 but because it has one of the most formidable armies, although it is a citizen army, in the whole of Europe. Hitler calculated that if he invaded Switzerland in World War II, he would have to pay dearly in terms of at least a million German lives.

What sort of neutrality is contemplated in Section 3, Madam President? Is it a demilitarized neutrality so that, because of our lovable and trusting nature, we leave ourselves to the tender mercies of our neighbors and some of the great predatory powers in history? Is it merely neutralization or neutralism?

Malaysia, Indonesia and Singapore are neutralist but not neutral. They belong to the nonaligned movement. Cuba is a neutralist but certainly not neutral. Mr. Castro was the chairman of the nonaligned movement before Rajiv Gandhi took it over from him some years ago. Of course, there is ZOPFAN, zone of peace, freedom and neutrality, to which we subscribe, together with the five other ASEAN countries; namely, Thailand, Indonesia, Malaysia, Singapore and Brunei. Of course, this has really risen to more than merely a verbal piety among the ASEAN countries.

It is, of course, frequently invoked with all the becoming incantations in pious tribute to peace and neutrality and freedom from time to time. But, Madam President, can we conceive of a neutral Southeast Asia without the participation of the Indochina states, particularly Vietnam? Can we conceive of neutrality in Southeast Asia without the guarantees of China, the USSR, Japan and the United States?

Even if Mr. Gorbachev says in Vladivostok: "I am prepared to sign a protocol tomorrow for a nuclear-free zone and a zone of neutrality in Southeast Asia," he does not even pay us the courtesy of saying: "As part of the confidence-building measures so that Vietnam, Cambodia and Laos can join such a neutrality pact in the future, I am now announcing that the Vietnamese are withdrawing from Kampuchea." He said that of Afghanistan and of Mongolia on the border with China. He could have granted the intelligence of Southeast Asians a little bit more recognition than that.

So, Madam President, why are we in a rush to put the provision on neutrality in our Constitution, when all our potential partners and guarantors have not said they keep themselves at the proper and necessary threshold of a legal commitment to consider neutrality when the time comes? What actuates, impels or moves us to surrender the flexibility of this country in assuring and promoting its own defense?

We must take this in the context of the previous statements of the committee that we must, as part of mankind, do our part to avoid a nuclear holocaust: the mass annihilation of mankind through a nuclear winter or through mass incineration. Who can dispute the urgency of that appeal? Who cannot believe in the vision of a peaceful world, finally rid of nuclear weapons? I think there is a certain lopsidedness to this argument. There is a tendency to locate all the burdens of responsibility for the threat of nuclear war on just one side of the global alignment of forces.

I want to know from the committee whether or not this is the official stand: that the United States and its allies are primarily responsible today for the threat of the nuclear annihilation of mankind. I have not heard a single word of reproach on the Soviet Union, as though the other side of this global nuclear configuration is completely blame-free.

My friends, I am one of those who support Section 4 in its proper formulation. I am going to vote for a nuclear weapons-free Philippines. I want to call the attention of the committee that it was the resolution of Commissioner Rustico de los Reyes that became the basis for the formulation of Section 4, unless it got lost along the way. We are, therefore, from the beginning responsible for this provision to eliminate nuclear weapons from Philippine soil. But I have a question with respect to that, Madam President, and anyone in the committee can answer.

We all know the debate in Western Europe. It was Helmut Schmidt, a leader of the German people for 30 years and perhaps, the most outstanding social democrat in the European continent, who just said goodbye to the Bundestag. When he said goodbye recently, I was reminded that it was this man, considered the number one anti-American in the Social Democratic Party of Germany, who invented the two-step approach to medium-range nuclear missiles in Europe. He said: "Stage one, let us talk to the Soviets whether they can remove those 300 SS20s on the European side of the Soviet Union which are targeted to various points in Western Europe. Then Europe would reject the Pershing missiles of the United States." That became the official position of Western European democracies. Bresdner refused to remove those missiles. So the European parliaments and their people, through referenda and plebiscite, said: "Since the Soviet Union did not remove the missiles in spite of our urgent entreaties, we allow the United States to station Pershing missiles in our country." And, Madam President, that is true of Germany, Italy, the lowland countries, and Great Britain. It was not a unilateral, one-sided suicidal abdication of the right to equal security. Of course, we are told now by Mr. Gorbachev in his speech in Vladivostok, "We are considering not adding anymore to about 120 SS20s in Siberia, targeted to Far Eastern countries." It is part of a campaign apparently on the part of the Soviet Union to build stronger links to the dynamic economies, especially of East Asia.

But, Madam President, in Europe, in terms of conventional forces, the Warsaw Pact outnumbers the NATO by three to one in manpower; two to one in armor and about three to one in combat aircraft. So the strategic issue in NATO is only one.

Madam President, suppose the Warsaw Pact countries massively attack Western Europe. We have no hope of stopping them. We are inferior in conventional forces, unless we fall back on battlefield tactical nuclear weapons. Europe then must surrender.

I do not want to imagine such a situation occurring in our own part of the world in the future. Suppose there is a massive invasion of the Philippines by conventional forces which we cannot match with our own conventional forces, will Section 4, in the view of the committee, foreclose entirely the option of stopping the enemy by means of battlefield tactical nuclear weapons? We would have a very little choice – surrender or use battlefield tactical nuclear weapons. What is the contemplation of the committee, if such a contingency arises after we approve a nuclear weapons-free Philippines?

MR. AZCUNA. The committee, Madam President, does not contemplate a rigid position where we foreclose any possible right to defend ourselves through nuclear weapons; it is just a policy. Hopefully, we will establish as a principle that we do not want our territories used for stationing nuclear weapons. The possibility the Commissioner has in mind can be met by tactical nuclear weapons from other areas not necessarily stationed in our territory. It can also be met by other nonnuclear weapons which can be developed such as laser weapons which are being developed now, a neutron bomb which is just as devastating. There are other ways of meeting such a contingency. However, we are studying a possible reformulation of Section 4, Madam President, to be able to make it sufficiently flexible in the event the national interest is threatened. As we stated, this is just a policy and when we say policy, it admits exceptions. This is not a rigid rule.

MR. OPLE. It is a very clear and excellent answer, Madam President. I would like to go back to Section 3. This has to do with the second paragraph which states:

> The State has the inherent right to self-determination, national independence and sovereignty. Subject to existing treaties, international or executive agreements, foreign military bases, troops or facilities shall be forbidden in any part of the Philippine territory.

Madam President, I would like to ask the committee what this phrase, "subject to existing treaties international or executive agreements," contemplates. Does it contemplate in particular the existing military bases agreement signed on March 14, 1947 between the Philippine Republic and the United States? Does it also contemplate the mutual security and defense treaty signed between the two states in 1951?

MR. AZCUNA. It contemplates all existing treaties and agreements which may have a bearing on that provision, including the ones the Commissioner mentioned.

MR. OPLE. In that case, Madam President, may I ask the committee to relate this to their statement yesterday that the base agreement, and presumably also the mutual defense treaty, between the Philippines and the United States is null and void *ab initio?* If that is the conviction of the committee, why do we refer to this nonexistent treaty in the second paragraph of Section 3?

MR. AZCUNA. Madam President, the stand of the committee members that the agreement may be so fatally flawed as to be null and void from the very beginning refers to the extension of the area covered by military bases beyond the naval reservations and fuelling stations authorized under the Tydings-McDuffie Act, the basis of the ordinance appended to the Constitution in 1935 which was ratified in a plebiscite. So that, at least, there is a portion of the territory covered by the military bases agreement that would be valid and it would be only null and void under that theory with respect to those territories beyond the naval reservation and fuelling stations authorized under the Tydings-McDuffie Act. So there is a valid portion and, therefore, the provision would still apply.

MR. OPLE. That is a very substantial change from the opinion made by the committee yesterday and also reassuring for some of us who feel that we should take seriously this second sentence of the second paragraph of Section 3 and respect our international treaties and agreements; otherwise, we will be an outcast nation.

Madam President, I also seek clarification of the statement made yesterday by Commissioner Garcia in response to what he characterized as a hypothetical question from the floor. He said that under Section 3, the Philippine government could still negotiate a new treaty on the bases beyond 1991. Is this a committee position?

MR. NOLLEDO. May we ask Commissioner Garcia to please reply to the question.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Thank you, Madam President.

In answer to a hypothetical question yesterday, I said that if we allow the military bases agreement to lapse in 1991, if and when it was necessary to enter into a new treaty, then it must be under certain very rigorous standards or requirements. In fact, Commissioner Nolledo said later that an amendment was being proposed by a Member of the Commission precisely regarding these requirements. Specifically, one of these very important requirements would be to submit the matter to the people in a referendum.

MR. OPLE. I want to thank Commissioner Garcia for his answer but in my opinion, it does not quite live up to the obligations created by the Transitory Provisions which are submitted, along with Sections 3 and 4, at the end of this draft article we have. The provision states:

> Upon the expiration of the RP-US Bases Agreement in 1991, foreign military bases, troops and facilities shall no longer be allowed in any part of the Philippine territory.

Is the Commissioner saying that this admits of equivocal interpretation that in spite of the very categorical, unconditional and unqualified prohibition of foreign bases, troops and facilities, he still can see the possibility of a negotiation of a new treaty?

MR. GARCIA. No, Madam President. Precisely, what I am trying to say here is the committee's position that there should be no foreign military bases after the treaty lapses in 1991.

In answer to a hypothetical question, I am not referring here to the committee report but to a possible proposed amendment.

MR. OPLE. I see. Then that is clear, Madam President.

MR. GARCIA. It is clear that the present military bases agreement would lapse in 1991.

MR. OPLE. Even this proposed amendment is hypothetical at this stage. Is that correct?

MR. GARCIA. Exactly.

MR. OPLE. I thank the Commissioner for that answer. It satisfied my sense of rationality now. The Commissioner was not referring to the text of these provisions but prospectively to a proposed amendment which I understand has been drafted by Father Bernas, without prejudice to other formulations being worked out of a similar import.

MR. GARCIA. Exactly.

MR. OPLE. I thank the Commissioner very much for that answer. I just have a few questions left.

MR. GARCIA. Madam President, while I am on the floor, may I please respond to a few points raised by Commissioner Ople?

THE PRESIDENT. The Commissioner will please proceed.

MR. GARCIA. I would simply like to state this: We have been discussing the presence of U.S. military bases in the Philippines, and that is why we have been trying to understand the role of the United States in the Philippines and in the Pacific. We are not referring to Soviet military bases in the Philippines, that is why a large portion of our arguments have been centered on U.S. military presence, both in this country and in the Pacific. If the Commissioner heard the entire presentation yesterday, what we were condemning was the proliferation of nuclear weapons and warheads both by the United States and Russia. In fact, I cited the numbers yesterday, a grand total of most strategic and tactical weapons of 37,657 for the United States and 17,656 for the USSR or a total of more than 55,000 strategic and tactical nuclear weapons.

Regarding the presence of Soviet and American military bases in the region, there are 520 military installations as of 1984 in the Pacific and more than 2 dozen Soviet military bases in the region.

MR. OPLE. In the interest of the integrity of facts, I will appreciate it if Commissioner Garcia will also take the trouble to identify the sources of his data. I promise to do the same on my part so as to enable our colleagues and the general public to check the authenticity and the sources of our data.

MR. GARCIA. Yes, Madam President.

THE PRESIDENT. Is Commissioner Ople requesting that right now?

MR. OPLE. No, I stated that as a principle which extends to all Members of the Commission, Madam President.

MR. GARCIA. This, in fact, has been presented to Madam President by the Alliance for Philippine Concerns: the case for a nuclear-free Philippines, a proposal for a nonnuclear provision in the Philippine Constitution. The sources of the data are contained in this presentation which was given to us. If the Chair can give me a few minutes, I will identify the basic reference material.

MR. OPLE. Can we just have the leave of the Commission to add this annotation to the transcript?

THE PRESIDENT. It will be best for Commissioner Garcia to just submit whatever document he has later on for the record.

MR. GARCIA. In fact, Madam President, if Commissioner Ople wishes, I can submit to him the exact names of all the bases mentioned here on pages 5, 6 and 7 of this report on the case for a nuclear-free Philippines.

MR. OPLE. Yes, I am interested in the sources because we live in alleged massive disinformation of the superpowers, Madam President. It will help if, for example, the data came from a prestigious institute like the Institute of Strategic Studies of the United Kingdom. This will probably command more faith than if it came from, let us say, a more bias source. What I am saying is that I am not raising any point concerning the accuracy of the data. What I am raising is a proposal for a self-imposed obligation on the part of every Commissioner, including myself, to identify the sources of data and information for the protection of the Commission itself.

MR. GARCIA. All right. There are two other sources here which I would like to cite: William R. Finney, *The Pacific Basin System on U.S. Security in U.S. Foreign Policy and Asia-Pacific Security, a Transregional Approach,* edited by William T. Tao and William R. Finney, Westview Press, Bolder, Colorado, 1982, pages 192 and 195.

THE PRESIDENT. We would appreciate it if that document which Commisioner Garcia has now be submitted to the Secretariat.

MR. GARCIA. Madam President, this document has been submitted to us by the Alliance for Philippine Concerns.

THE PRESIDENT. All right. So we can have the time to examine it.

MR. DE CASTRO. Madam President, I request that each Member of the Commission be given a copy of the source of those information because it is my knowledge that nuclear weapons are top secret matters, more particularly when it involves the number and capability of such weapons. In the case of the United States, I believe only the President of the United States and perhaps the Chief of Staff of the Joint Staff know it. In the case of Russia, perhaps only Mr. Gorbachev knows it. These are top secret matters that only top leaders know. So I would like to know the sources of those information so that we can make appropriate investigation as to the truth of such information.

Thank you, Madam President.

MR. OPLE. May I continue, Madam President?

THE PRESIDENT. Commissioner Ople will please proceed.

MR. OPLE. This is presumably I have the floor and I think the Chair has kindly requested Commissioner Garcia to submit the identities of his sources, an obligation I impose upon myself right now, Madam President.

MR. GARCIA. Excuse me, Madam President. I was interrupted. I was in fact trying to say something.

THE PRESIDENT. Just a minute, Commissioner Garcia. Commissioner Ople is in the process of his interpellations and remarks so that if there is any reply to him, we will call Commissioner Garcia as soon as Commissioner Ople finishes his interpellations.

MR. OPLE. Madam President, according to the record, Commissioner Gascon was given one hour and thirty-five minutes yesterday. Most of that time was taken up by the committee in terms of rather extensive replies to the questions of Commissioner Gascon. I am not going to exceed that limit, Madam President. May I proceed to resume my interpellation? I still want to go back, just very briefly, to the point of the nullity or the invalidity of the bases agreement. I just want to ask the committee, considering the lapse of forty years since the end of World War II, the Joint Resolution No. 93 of the U.S. Congress, the Treaty of General Relations and the bases agreement of 1947. I am very struck by the novelty of this finding now that this bases agreement was null and void from the beginning. Do I take it that the eminent men of the law, including past Presidents, involved with the incremental improvements of these agreements since 1946 missed this point entirely through the thicket of their well-known legal erudition? Was there a legal amnesia for 40 years? Did the law profession in the Philippines sleep like Rip Van Winkle for 40 years in order to wake up here with a new insight into the bases agreement of 1947 to discover suddenly that it is void *ab initio?* If that is correct, I want to pay obeisance to the men who provided this revelation because it merely means that after 40 years, legal brains, undoubtedly superior to the generations of lawyers that had existed before, had now turned up this spectacular finding. I do not believe that President Roxas raised this. President Recto did not raise this nor President Garcia or Macapagal. But this happens now and then. If it is a brilliant discovery, we must assign the credits. Besides, what eminent man of the law in our time shares this finding?

MR. NOLLEDO. May I inform the good Commissioner that it was Senator Jose W. Diokno, who topped the bar and the CPA examinations, that presented this theory. He was the first to present this theory, it seems to me. But if my memory serves me right, I heard President Macapagal also raising this issue before but he did not pursue it any further. It was Jose W. Diokno's opinion that inspired us to conclude that the RP-US Bases Agreement is null and void.

MR. OPLE. President Macapagal was a signatory to the Mutual Security Treaty of 1951.

MR. NOLLEDO. That is the reason he did not pursue the theory of nullity. I would like to check that fact because somebody told me about it. But it was the opinion of Senator Diokno that made some of my colleagues here delve deeper into the question. But if the Commissioner will look at the facts, there was really a violation of the 1935 Constitution because the Tydings-McDuffie Act was made part of the 1935 Constitution. Any lawyer worth his salt will readily conclude that there was a violation. There are two kinds of illegal contracts – null and void *ab initio* and inexistent. We do not even classify the RP-US Bases Agreement as inexistent because we recognize the existence of the agreement. It is existing in fact but not valid. We have recognized the principle that the government is not estopped by the illegal acts of its officers and also that when it comes to a very transcendental issue of sovereignty, I think the issue of nullity should be given importance. When we talk of nullity, we do not mean that the agreement does not exist at all. The right to question the nullity of a contract does not prescribe. That is a well-known principle in law.

MR. OPLE. Having made that interpretation, Madam President, will Commissioner Nolledo, therefore, still feel at ease with this second sentence of paragraph 2, Section 3, which says, "subject to existing treaties international or executive agreements"? According to the previous comment of Commissioner Azcuna himself, a distinguished man of law, especially public international law, the bases agreement is one of those included in this clause.

MR. NOLLEDO. Is Commissioner Ople aware that he was also one of those learned men who made me raise quizzical eyebrows about the validity of the RP-US Bases Agreement when he appeared before our committee and admitted that while the so-called RP-US Bases Agreement was ratified by the Philippine Senate, it was never ratified by the U.S. Senate?

MR. OPLE. I am glad the Commissioner remembers that. I stand by that. There are many defects in this agreement, but it is not equivalent to saying that it is null and void from the beginning, therefore, inexistent. Therefore, out of line with this clause, the beginning clause of the second sentence, second paragraph of Section 3, will the committee then consider an amendment to this at the proper time? Maybe we should eliminate any mention of existing international or executive agreements which will embarrass the committee and this Commission if we hold on to the interpretation that there is not existing agreement from a legal point of view.

MR. NOLLEDO. There is an existing treaty, but we did really classify it as null and void because we cannot go, as I said, against reality. The bases and the agreement exist, but we consider the agreement null and void to reinforce our other arguments that there should be no military bases in the Philippines.

MR. OPLE. So this is a rhetorical interpretation in the Aristotelian sense of buttressing an argument.

MR. NOLLEDO. The Commissioner can call it that. But as a lawyer, I believe the agreement suffers from a taint of unconstitutionality.

MR. OPLE. And the Commissioner feels that his legal skills are called upon at this time in history to strengthen and buttress the argument of the committee on the bases.

MR. NOLLEDO. I think every lawyer wants to maintain his professional standing and I am taking the risk in that regard.

MR. OPLE. I want to leave Section 3 as fast as I can and that leaves only one more question on this particular section, Madam President. This has to do with the issue raised in the resolution passed in the recent caucus. The reason for that resolution, if I remember it right, was that if this Commission now votes on Section 3, this can affect the political leverage of President Aquino in the United States. Although before we used to say that the work of this Commission cannot be linked to the visit of President Aquino, I yielded to the overwhelming arguments of Commissioner Garcia in that crux. I shared his conviction very forcefully expressed at that time that the work of this Commission should not be linked to the visit of President Aquino.

Will the Commissioner not agree with me that when the committee approves Section 3, the effect is to cancel all these options, which President Aquino has been saying to the whole world she would like to keep open until 1991? Will that not be the objective effect, even if unintended, that all these options are cancelled because Section 3, with the Transitory Provisions, will close this issue? The provision will not keep it open. It will preempt the President of the competence of her office to pass upon foreign policy and international relations and national security. And it will probably cause the gravest political embarrassment to President Aquino which she has ever experienced in her very promising six or seven-month reign so far.

MR. NOLLEDO. I agree with the Commissioner, but our group is taking the bold stand on the matter. Perhaps, other Commissioners may find our stand unpalatable but this does not mean that we are not receptive to any possible amendment to the provision.

MR. OPLE. So that, in effect, the Commissioner is not standing pat on his original position. He is now showing his signs of flexibility, which I welcome.

MR. NOLLEDO. We are standing pat on our original stand, but we do not do away with the Rules of this Commission. We have to subject ourselves to the will of the Commission and we have to go with procedural rules, like amending this provision, Madam President.

MR. OPLE. I thank the Commissioner for that. I am not a member of the Aquino government like the three others that have been invited to serve here. What I want to say is that I have a great feeling for any Philippine government as the constitutional organ of the Filipino people, irrespective of the accident of personalities.

MR. NOLLEDO. Madam President, if the Commissioner will permit me, may I ask him some questions because he said he has a great feeling for any Philippine government.

MR. OPLE. For the Philippine government, about the Filipino people.

MR. NOLLEDO. Naturally, the Commissioner has a feeling for the Filipino people.

MR. OPLE. Madam President, I think to raise this question at all is to cast aspersion on my integrity.

MR. NOLLEDO. No, Madam President. I beg the Commissioner to answer my questions.

MR. OPLE. I am speaking of the Philippine government.

MR. NOLLEDO. No, I do not mean any implication of that kind, Madam President. I would like to know what the Commissioner's stand is on our assertion that the existence of the American bases impairs the sovereignty of the Republic of the Philippines.

MR. OPLE. It does, to an extent that the Philippine government allows the rights of the Filipino people in this relationship to be trampled upon. That is the reason I have greater hopes that if we gave to the existing government under its present head a becoming courtesy that it is capable of exercising its own undaunted constitutional competence on matters of national security and foreign policy, it will not disappoint us.

MR. NOLLEDO. Does the Commissioner really believe that the existence of the American bases in the Republic of the Philippines is indispensable to our national security?

MR. OPLE. It is not. What I care about, Madam President, since I am now engaged in a very pleasant dialogue with my colleague in the committee, is precisely that there is only one significant political leverage the Filipino people have relative to this great superpower, the hegemonic superpower, that is the United States of America. That political leverage, that bargaining clout, if I can be so blunt as to call her that, has never been this great since 1898. What I care about is why this great historic political leverage available to the Philippine government should be set aside by this Commission when we deny President Aquino the options that she talks about, which she would like to be open until 1991. That is exactly what we are doing. We are throwing away the political leverage of the Philippine government. Never as great since 1898 and 1947, this political clout can be used to redress the historic inequalities between the two countries.

My friends, we all know about the realities of international politics: that the only law for every nation is its own self-interest until there is a world government when the whole world will become one state. But until that time comes, may I counsel a necessary and becoming prudence, let us not out of a trusting nature give away the only possessions we have in terms of being able to compel the United States to respond to the grievances of our government and people, and that is the bases agreement.

President Aquino is not bound to extend this agreement. Under the resolution that I filed together with Commissioners Rustico de los Reyes, Teodulo Natividad and Regalado Maambong, what did we say there? Abrogate the bases agreement without waiting for 1991, but let the Philippine government, let President Aquino keep the options. We should not tell the Americans yet. Whether she will abrogate or entertain a joint initiative or even a unilateral initiative from the United States for a new treaty, then all these political leverage will be available to her. She can abrogate, she can agree to a new negotiation for a completely new treaty. That was the point of our original resolution, Madam President. What we wanted was to make this historic political leverage available in full to the President of the Philippines, whoever he is or whoever she is. This is the long-awaited historic moment to compel the United States in bargaining to redress, at last, all these historic inequalities between our two peoples in that lopsided relationship that began in 1898. There are many Americans who also welcome this opportunity to correct these inequalities which for some of them are also painful.

MR. NOLLEDO. By inequalities, is the Commissioner referring to the one-sided provisions, the onerous conditions of the RP-US Bases Agreement?

MR. OPLE. Among others, Madam President, I would like to see the Philippine government in due course, for example, if President Aquino in the exercise of her options decides not to abrogate but to call for a new treaty. I would like her to be able to use this clout in order to achieve for the Philippines a CBI scheme. What is CBI? This is the Carribean Basin Initiative according to which the manufactured goods outside of textiles of about 20 Carribean countries, including Central America, enter the United States market free of duty. That, if extended to this country, it would propel us within 10 years to a level of development higher than that of Korea and Taiwan.

MR. NOLLEDO. Would the Commissioner commit to support the Bernas amendment authorizing the President to enter into a new treaty subject to ratification by the people?

MR. OPLE. This is not yet on the agenda, Madam President. However, I gathered from Commissioner Bernas that this is partly derived from the resolution that we filed earlier, and so claiming partial paternity, I see no reason why we should repudiate our own offspring at the proper time because this is not yet in the agenda.

Madam President, I now leave Section 3, and it will take me just about 10 minutes more to wind up on other sections. Section 9, line 29 on page 2, on the right to life, states:

> The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution.

The focus of this sentence is on the sanctity of family life. Will this term "sanctity," which I interpret as being synonymous with purity and inviolability, disauthorize Congress from passing a divorce law? I am not saying in the immediate future, but I hope this Constitution will live for ages, let us say, 20 years or even 30 years from now. After all Italy, where the Holy See is, approved a divorce law about 10 years ago in a referendum, and that is the very citadel of our faith as Catholics and Christians. Will the words "sanctity of family life" interpreted as being inviolable and being pure be sullied by future legislation that will grant marital partners a wider freedom of choice than what they now enjoy under existing law?

MR. VILLEGAS. As far as the committee's opinion is concerned, I think that statement does not take any stand one way or the other about the possibility of divorce. That will be left to legislation and it will be up to the people to decide.

MR. OPLE. The question is very simple and very clear, Madam President. Will these words disauthorize Congress to pass a divorce law in the future?

MR. NOLLEDO. The answer is no because we do not talk of the sanctity of marriage; we talk of the sanctity of family life as a whole.

MR. OPLE. The answer is satisfactory. I would like to proceed to the next sentence closer to the heart of Commissioners Bacani and Villegas which reads:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

Yesterday, I had the good fortune to listen to some of the interpellations precisely on this sentence. Commissioner Villegas on behalf of the committee then said, "This could be related to some statements in the general provisions on family planning." Does this mean that, in providing for the protection of the life of the unborn from the moment of conception, this is going to be taken as a signal to dismiss the relevance and validity of all family planning programs in the Philippines? Is that how the committee views this?

MR. VILLEGAS. No. As we made it very clear yesterday, any contraceptive that is not abortifacient can still be legal, according to this specific provision.

MR. OPLE. I will vote for this provision, Madam President. I think that in writing a constitution, we write not only provisions of a fundamental law. We set the tone whether we like it, or the tone of a whole civilization, and that is why I also voted for the elimination of the death penalty under certain conditions, subject to certain powers of Congress to provide for exceptions in the case of heinous crimes. Overall, we should raise the tone of our public and social morality through a constitution; and the reverence for life, that time and life is, of course, being rendered cheap by all the threats to our safety in a very disorderly environment. Still a commitment to the protection of life, even in its incipient stage, is a declaration of a commitment to a higher tone of our civilization. But at the same time, I would be very concerned if the committee now taking off from its forthcoming victory on this Section 9 will start considering this as a mandate to discredit, to actually dismiss family planning programs in this country. I heard Commissioner Villegas say that purposeful programs to limit the size of families have failed everywhere. He quoted President Reagan, whose wisdom might lie in other fields than in family planning, as having said that social and economic development is the only key to the reduction of human populations. He referred to the new U.S. policy, which is driving Mr. Salas and his UNFPA to a new lookout. He has applied to be transferred to Tokyo because of this new restrictive atmosphere on family planning in the United States.

But, of course, may I say that family planning is not a rigid idea. May I tell the body that in the Soviet Union, which I know a little bit since I have traveled there no fewer than seven times, even within that vast country, there are two kinds of population crises. In the European part, it is the crisis of a steadily diminishing population; and, therefore, the State holds up medals of heroism for heroic mothers who would give birth to more than eight children. But in the Asian part of the Soviet Union, there is a reverse problem. They are reproducing at a faster rate. This possesses momentous political and economic implications for the Soviet Union after the year 2000, when the Asiatic population begins to match the European population. And what will we have – crisis of leadership about distribution of leadership and power, especially in the higher strata of the Soviet policy and bureaucracy. But India is different. Japan is different. The Philippines is different. We are a developing country. If my data are still current – I used to sit in the Population Commission – about 10 years ago, our population growth rate was 3.5 percent according to the University of the Philippines. Then it declined over 10 years to only about 2.6 percent. The NEDA now says it is 2.4 percent if I am not mistaken. And yet, these were years of stagnation in manufacturing. As a matter of fact, Philippine manufacturing has never exceeded 14 percent of the total employed force of this country since 20 years ago. Commissioner Villegas is an authority on that. He uses this argument very fiercely in the debates on protectionism.

Since we did not really grow spectacularly in those 10 years, still the rate of growth of the population dropped precipitously from 3.5 to only 2.4 percent at this time. Will we not give the population policy of the government and of the nongovernmental organizations some credit for having accomplished this small miracle in population control?

MR. VILLEGAS. That is one of the most statistically debatable issues. Although this is a completely separate question which is not related to Section 9 of the Article on the Declaration of Principles, still my position is that it is subject to the flux and the changes in economic policy, in urbanization and in industrialization. It should be something that should not be found in a constitution, but should be subject to legislation. If family planning is found necessary, let it be in the legislative process. However, as I said, that is a completely separate question.

MR. OPLE. This is a slight revision of the views which the Commissioner gave yesterday, but I hope this is the official one.

MR. VILLEGAS. What I stressed yesterday was to support in the separate discussion on the Article on the General Provisions the idea of deleting any reference to population policy precisely because today it may be that we want to limit population. Tomorrow it may be that we want to increase population.

MR. OPLE. Thank you very much for that clarification.

I want to ask now: Does this belong to the province of Commissioner Villegas or Commissioner Bacani? We say, "Protect the life of the unborn from the moment of conception." Is there in jurisprudence anything now that will help us visualize the precise moment, the approximate moment when conception begins and, therefore, the life of this new human personality entitled to all the protection of the laws in the Constitution begins? Is there any standard legislature or jurisprudence that will support an interpretation of the moment of conception?

MR. VILLEGAS. Jurisprudence? None. Precisely, this is one thing that we have to obtain from the declaration of natural scientists. In this regard, I would like to read this specific statement by natural scientists about when human life begins. This is taken from the *Handbook on Abortion* by Dr. and Mrs. J.C. Wilke. The most distinguished scientific meeting of recent years that considered this question of when human life begins was the First International Conference on Abortion held in Washington D.C. in October 1967. It brought together authorities from around the world in the fields of medicine, law, ethics and the social sciences. They met together in a think tank for several days. The first major question considered by the medical group was: When does human life begin? The medical group was composed of biochemists, professors of obstetrics and gynecology, geneticists and so forth, and was represented proportionately as to academic discipline raised in religion. For example, only 20 percent were Catholics. Their almost unanimous conclusion, 19 to 1, was as follows:

> The majority of our group could find no point in time between the union of sperm and egg which is the fertilization or, at least, the blastocyst stage and the birth of the infant at which point we could say that this was not a human life.

Parenthetically, the blastocyst stage is shortly after fertilization and would account for twinning. They continued:

> The changes occurring between implantation, a six-week embryo, a six-month fetus, a one-week-old child or a mature adult, are merely stages of development and maturation.

There has not been before a more important or a more qualified body of natural scientists who, as a group, has thoroughly discussed and come to conclusion on this subject until such time as some other groups of equal scientific importance might possibly come to a different conclusion. We believe that the abortion debate from a scientific standpoint must proceed on the assumption that this is human life. So, human life begins at fertilization of the ovum.

MR. OPLE. But we would leave to Congress the power, the mandate to determine.

MR. VILLEGAS. Exactly, on the basis of facts and figures they would obtain from experts.

MR. OPLE. Yes, to legislate a kind of standard so that everyone will know what moment of conception will mean in terms of legal rights and obligations.

I am about to finish, Madam President. I should have wanted to dwell at length on Section 26 which reflects an original resolution that I, with some others, filed on the right of an oppressed people to revolt against their government but this was I think sufficiently covered in the dialogue with Commissioner de Castro yesterday.

My final question then pertains to a favorite section of Commissioner Nolledo and that is Section 23 concerning broadening opportunities for public office and prohibiting political dynasties. I really wish that there had been more time to develop a good debate concerning political dynasties. What I can see here is that the first part of Section 23 would broaden the opportunities for public office and then contract the role of dynasties so that there is a kind of mutual displacement. Would that interpretation be right, Madam President? In other words, we broaden public office at the expense of political dynasties.

MR. NOLLEDO. The Commissioner is right. That is correct.

MR. OPLE. Political dynasties thrive in many parts of the world and are contingent on many factors, although they may be called with other names. I think what is abhorrent about political dynasties is the monopoly of political power. Is that right?

MR. NOLLEDO. The Commissioner is correct.

MR. OPLE. Yes; another abhorrent part is that there is a class distinction involved here. Usually, these are families favored by the accident of birth; meaning, they were born to families already with accumulated property. Therefore, that is the injustice that attaches to political dynasties. At the same time, when we survey some of the interesting provinces around Metro Manila, I think they partake of the different characteristics in terms of traditional political power. I begin to tread now on some sensitive spots when I point to Batangas.

Batangas is a Laurel country. But in the case of Batangas, I recall that Sotero Laurel was the Secretary of the Interior of the Aguinaldo government in Malolos. Since the revolution, the Laurels have been a leading political family in Batangas. We are very privileged to have with us now, right here in this Commission, one Laurel, one of the most eminent of them all. Under the Commissioner's definition of political dynasties, would that encompass the Laurel family?

MR. NOLLEDO. I have not actually studied the details involving the Laurel family. But it seems to me that Don Pepito denies that he has any political ambition at all and he said that the political dynasty provision should not apply to the Laurel family.

For the information of the body, we have not defined the meaning of political dynasty. Actually, if we will read this in short, "the State shall prohibit political dynasties," it is up for Congress to define.

MR. OPLE. Yes.

MR. NOLLEDO. But my concept is that Congress shall see to it that after the permitted reelection has been exhausted, I think the close relatives should not inherit the position because of undue advantage to others who are equally bright but do not possess the necessary financial support. Perhaps the son may not run after the last reelection but he can run later on. I am giving an idea to Congress. The denial is not absolute.

MR. OPLE. Yes. I suppose we are looking for a sociopolitical framework of analysis for this provision and I think the dialogue has already been fruitful.

Let us move the inquiring eye to my own province of Bulacan. In Bulacan, there are no dynasties in the sense of a stable monotonous leadership from the same family across generations. The first Governor of Bulacan under the American occupation in 1901 was the grandfather of Governor Ignacio Santiago. Then there was a long pause of several decades in the political career of that family. Finally, one deserving offspring of that line, who is Ignacio Santiago, came up and became the governor of Bulacan. Is that not prohibited in this provision?

MR. NOLLEDO. We recommend to Congress that the prohibitions should just cover relationships probably up to the third civil degree or degree of consanguinity or affinity. We can limit only up to the third civil degree or fourth civil degree depending on the wisdom of Congress.

MR. OPLE. For example, Commissioner Nolledo suddenly develops a yen for politics and there are some among his children who, with a good genetic foundation, later on also develop a liking for politics in Palawan. I transpose this to the Commissioner's own situation so that the Commissioner will begin to understand our concern that actually human genes can be functioning in such a way that some families like politics. The others do not like politics; they like business.

Just about 25 years ago, I was just an ordinary inhabitant of a barrio in Hagonoy, Bulacan. I was disadvantaged from the beginning by the accident of birth because I was born to a very poor family. But now mainly through luck and through no merit of mine, I think I have risen somewhat in the world so that I attracted the attention of the people in my hometown and they wanted me to lead them. Will a gifted child belonging to my family be eternally proscribed from presenting himself for public office later on because of this disqualification?

MR. NOLLEDO. No. As I said, we have not defined. It is up to Congress to state the circumstances under which the prohibition may apply. If in the case of my son, if I feel that I have already exhausted my right to be reelected, as a manifestation of self-sacrifice and out of *delicadeza*, I will tell my son not to run even if there is no prohibition against political dynasty.

MR. OPLE. What I feel is an inner demand for logic and rationality so that this provision can be actually attached to some principles of equity without doing violence to the freedom of choice of the voters because they are entitled to as broad a freedom of choice as the environment can provide and if they want somebody to run for office even if he is closely related to someone in office, do we have the right to curtail the freedom of the voters?

MR. NOLLEDO. I would like to be specific. I hope the Commissioner will agree with me. Suppose I am the governor. I ran for reelection and I was reelected. Again, I ran for reelection. That will be my last chance to be reelected to the same office. However, I felt that I could not run any more because I am already old and decrepit. Hence, I develop my son to be my successor.

In the meantime, when my son runs, I still hold the position. Would we concede that I have an undue advantage over other candidates because I hold the position. I have all the facilities of the government at my command, and then I let my son continue bringing the alleged honor of the father and continue the position?

MR. OPLE. Madam President, in fairness to the others, I want to terminate my interpellation now. But before I leave this podium, may I just say some concluding words concerning this section on political dynasty.

I believe that the roots of political dynasties, to the extent that these are repugnant in a democratic society, are in the society itself — a feudal socioeconomic structure — whereby those who were advantaged by the accident of birth and have been born to considerable possessions and property can acquire an unfair advantage over others. But I think, ultimately, the solution should be to reform these iniquitous social and political structures, but we should minimize invasions into the domains of privacy of people; that is, the freedom of choice of the electorate. The right to be voted upon is inherent in the right of suffrage, and I hope that Commissioner Nolledo will accept that interpretation.

So at the proper time, I would be happy to consult with Commissioner Nolledo concerning a proposed amendment to this section.

Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. We are now in the period of amendments. I ask that Commissioner Davide be recognized.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

Madam President, before we move to the period of amendments, may we address a few questions only to Commissioner Ople, just to clear up one point.

THE PRESIDENT. Is Commissioner Ople ready to answer Commissioner Suarez?

MR. OPLE. I will be most happy to answer.

THE PRESIDENT. Commissioner Suarez may proceed.

MR. SUAREZ. Thank you.

Notwithstanding the fact that the Gascon record yesterday had been broken, may I take one minute of the Commissioner's time? Will the Commissioner bear with me?

MR. OPLE. That I would like to verify because I promised not to exceed the time limit of Commissioner Gascon. *(Laughter)*

MR. SUAREZ. I will consume only one minute of the Commissioner's time.

I was listening intently to the Commissioner's analysis of the Gorbachev statements made in Vladivostok last July 28, and I appreciate the Commissioner's analysis and review. May I only clear up one point?

I take it that when Mr. Gorbachev made this statement that if the United States would pull out of Clark Air Base and Subic Bay, that step would not be left unanswered, if I may quote the Commissioner correctly from his statement.

MR. OPLE. Yes, I confirm that that is a precise quote.

MR. SUAREZ. Thank you.

The implication of that statement is that if the United States would pull out of Clark Air Base and Subic Bay, then the Russians, in turn, may pull out of Cam Ranh Bay. Am I right?

MR. OPLE. The official Soviet position, Madam President, is that they have no military bases outside their own country. The most they admit about Cam Ranh Bay is that they go there to fuel and to refit.

MR. SUAREZ. Thank you.

It is because it is a warm water port.

MR. OPLE. Yes. In effect, that is what Mr. Gorbachev offered by way of a tantalization of . . .

MR. SUAREZ. It is a sort of an international *quid pro quo;* in other words, something to that effect.

MR. OPLE. It was very vaguely worded. This will not go on unanswered and I think whether it is the United States or the Soviet Union, it is right for a country like the Philippines to proceed from a position of skepticism about these promises, especially if they are very vague.

MR. SUAREZ. Thank you.

The people from Central Luzon always go for the jugular like the Commissioner and me, so may I ask directly my question? Assuming that Mr. Gorbachev was speaking in good faith, would the Commissioner, as a Filipino, not be comfortable if the United States pulls out of our country and Russia, on the other hand, would not use Cam Ranh Bay as a port of call for its nuclear-powered vessels?

MR. OPLE. Madam President, the security configuration of Asia and the Pacific and of the world is something that is ridden with complexity. I would actually welcome a situation someday, where there is no foreign military presence in Southeast Asia, but I would go about this very cautiously in terms of seeing to it that we do not expose our security unnecessarily to the mercies of competing powers.

MR. SUAREZ. And that would be the ideal situation for Filipinos like the Commissioner and me?

MR. OPLE. We should strive towards that, Madam President.

MR. SUAREZ. I thank the Commissioner for his clarification.

MR. RAMA. Madam President, I ask that Commissioner Davide be recognized.

THE PRESIDENT. Commissioner Davide is recognized.

MR. TINGSON. Madam President, a member of our committee, Commissioner Garcia, feels that he has some very important points to state directly in answer to some of the statements of Commissioner Ople a while ago. He wonders if, as a member of the committee, he would not be allowed to do it now.

THE PRESIDENT. How long should he talk, because the Chair understands that there was quite a lengthy discussion already on this point yesterday and Commissioner Garcia took a long time in explaining his points?

MR. GARCIA. Yes, Madam President.

THE PRESIDENT. Would it be just about the same thing?

MR. GARCIA. Madam President, I was trying to answer a few points which Commissioner Ople presented, but I was interrupted.

THE PRESIDENT. Are these new ones which the Commissioner has not answered before?

MR. GARCIA. Some of them are new ones, but there are a few points which I would like to stress.

THE PRESIDENT. All right, just the new ones because some other issues have already been raised earlier by others.

MR. OPLE. May I reserve the right to give a rebuttal in accordance to customary parliamentary procedure, Madam President.

THE PRESIDENT. Yes. Commissioner Garcia is recognized.

MR. GARCIA. First of all, there are many points which Commissioner Ople touched. I do not wish to answer every single point. I only want to stress the major points.

The best leverage, I believe, one can give to any Philippine President is to be the head of a truly sovereign nation, and that such is perceived among the concerts of nation.

The presence of foreign bases in our land is seen, especially by many Third World nations, as a serious impairment and derogation of our sovereignty. That is why we have been saying that the best thing that can be given to any Philippine President – not only this President but future Presidents – is precisely for this body to be able to declare that the State is fully sovereign; and that is our position.

Secondly, the other point I want to stress is regarding the effort of this country to move towards a zone of peace, freedom and neutrality in this part of the world. I believe that the first steps in the pursuit of peace must be made in a bold and daring manner by the sovereign states of the Southeast Asian region. We should exercise this sovereignty, and we should exercise the initiative among the nations of Southeast Asia, both the ASEAN nations and the nations of the former Indo-Chinese colonies.

We simply cannot hide behind the shield of one of the two superpowers. Precisely, we must provoke the process of peace by challenging the superpowers to some sanity and shake them out of their warlike mentality.

I believe that we must declare by our initiatives that might is not always right. And yet this is what has happened in the world of diplomacy, in the world of foreign relations where might has been exercised and "right" automatically follows; but that should not be so.

Thirdly, the studies of eminent scientists, including those of Filipinos, for example, Dr. Frank Arcellana and Jorge Emmanuel, have shown the geopolitical implications of a nuclear winter. As far as U.S. military bases in the Philippines are concerned, these are the conclusions:

The military bases, in the face of nuclear war and weapons, are obsolete. Invoking the nuclear winter scenario, nuclear weapons, which are tools of indiscriminate mass killings and destruction, will not only be unable to protect us; they will eventually kill us all.

Secondly, the justification of U.S. overseas bases as essential for national security is no longer valid, since the nuclear winter scenario recognizes no national boundaries. Such terms like defensive perimeter or offensive outposts are archaic in the face of a nuclear war.

It is, in fact, suggested even by United States scientists as a gesture of concern for the human rights of the people of the South Pacific and of Asia for the U.S. to fall back, not only to Saipan or Tinian but all the way back to the deserts of Nevada.

A third point which is very important regarding the bases is the fact that nuclear accidents do happen. The reason we say there is the urgency to address the bases issue in this Constitution is that tomorrow may be too late. Nuclear accidents do happen.

The U.S. Defense Department has stated, and I quote:

> There has been a total of 33 nuclear accidents involving U.S. nuclear weapons throughout the period that the U.S. has had these weapons. Two accidents released radioactive material; one, in Palomares, Spain on the 17th of January 1966 which involved the crash of an airplane, a bomber plane. And the other is in Thule, Greenland on the 21st of January 1968.

The Center for Defense Information estimates that since 1945, there has been an average of one major U.S. nuclear accident per year and as many as 250 minor nuclear accidents during that time. This is very important.

There is another type of accident which can be critical. We form part of what is known as a C-3-I system which refers to command, controlled communication and information. There have been at least five major accidents involving false alarms. A C-3-I type of accident is that which happened on the 9th of November 1970 where a mechanical error triggered the early warning system of the North American Air Defense Command in Colorado. For six minutes, missile bases were put in a higher state of nuclear alert and check interceptors were scrambled. Fortunately, this error was discovered before nuclear missiles could be launched. The danger of nuclear accidents is another reason for the removal of nuclear weapons and bases from the Philippines.

Lastly, I would simply like to acknowledge our debt.

We have not been the first ones to advance the argument that the RP-US Military Bases Agreement is null and void *ab initio*. As Commissioner Nolledo has pointed out, former Senator Jose W. Diokno has advanced his argument. The members of the anti-bases coalition, like former Justice J.B.L. Reyes, have also advanced their argument. Former Senator Lorenzo Tañada has advanced his argument especially in the public hearings. The point we simply want to make is this: The military bases agreement is seriously flawed because it was a violation of the Philippine Constitution. All the provisions of the Philippine Independence Act were incorporated in the 1935 Constitution and consequently became a part of it. By virtue of Section 3 of Ordinance 1, it was appended to the 1935 Constitution. Section 10 of the Philippine Independence Act which was incorporated therein only provided for naval reservations and fuelling stations. Any change in the Constitution has to be amended in the manner provided for by Section 1, Article XV of the 1935 Constitution which states:

> Such amendments shall be valid as part of this Constitution, when approved by a majority of the votes cast at an election at which the amendments are submitted to the people for their ratification.

I would like to point out that there was a plebiscite held on March 11, 1947 but it was only on parity rights. In fact, those Commissioners who were at that time already involved would remember the campaign slogan of Roxas when he was campaigning for the plebiscite: "No parity, no money." And yet, I want to point out that three days later the military bases agreement was concluded. Why was it not included in that plebiscite? Another point that must be remembered is that at that time also there were negotiations being undertaken regarding the Philippine Rehabilitation Act. In other words, the three agreements – the Philippine Rehabilitation Act, the Philippine Bell Trade Act, the parity amendment and the Military Bases Agreement – came as one single-embryo program of the Truman administration for Philippine independence. And as one author pointed out, clustered together with the economic and financial means of bludgeoning the new Republic were the military facilities which brazenly derogate Philippine sovereignty.

We have to consider the historical circumstances which surrounded the agreement. We have to consider the state of affairs of the Philippine nation after the world war. We have to consider the very weak position of the Philippine government at that time considering we have just emerged from a colonial experience.

These are the reasons. These are the situations which somehow seriously impair or give rise to a serious flaw in what actually happened at that time. Therefore, the position that the committee takes is to correct this historical aberration. It is as clear as that. And only after we have done this can we proclaim to the people that we now have a sovereign charter that makes a pronouncement without fear on this point after we have known all the facts.

Thank you, Madam President.

THE PRESIDENT. Thank you.

MR. OPLE. Madam President, it will take me just three minutes to provide a rebuttal.

THE PRESIDENT. The Commissioner may proceed.

REBUTTAL OF COMMISSIONER OPLE

MR. OPLE. On point No. 1 made by Commissioner Garcia that the best leverage for a President is to be the head of a genuinely sovereign nation, leading to the argument of taking away the bases agreement without recourse to Section 3, I want to express my conviction that the Philippines is no less sovereign than Cuba, Nicaragua, Vietnam, Mozambique, Angola or any of these countries that claim to be nonaligned but whose foreign policies as we all know are closely geared to Soviet foreign policy. Therefore, I maintain that President Aquino is the worthy head of a truly sovereign nation, even by the standards of some of these countries whose foreign policies are anti-American.

On the second point, about "might" prevailing over "right," we do not live in an antiseptic global society, Madam President. We live with messy realities. In a Constitution like this, we hope to exalt the primacy of "right" over "might," but in the world as a whole, until the world becomes a single state which has been the dream of visionaries from Aristotle to Kant, to the poet Tennyson and many other visionaries of the age, until that point is attained in world history when all the states can become one under a juridical global entity – not yet the United Nations which falls short of that – I think we have to live by our wits, and I will not answer this nuclear winter thesis. I do not know if it helps the argument of those who are for Section 3 as it is now worded, since this is an admission that regardless of bases anywhere, in the event of a nuclear war, no one will escape the annihilation of a nuclear winter.

I just want to point out that the reason why Commissioner Garcia is able to supply abundant data about nuclear accidents in the United States is that the U.S. is an open society. It was a cause for jubilance throughout the world when Mr. Gorbachev, in a sharp departure from policy, made available to western scientists the details of the Chernobyl accident. That was supposed to be a very courageous radical act on the part of the Gorbachev regime in order to open up their own information a little bit to the rest of the world. I would rather live in an open society, Madam President.

The fourth is about the theory of the invalidity of the bases agreement. If it is really a nullity, then I can live with that. I am merely saying that in the second paragraph of Section 3 we refer to international treaties and agreements, the existing ones. According to the members of the committee, these definitely include the bases agreement. So, I just want to point out that on one hand the committee says this is a nullity in existence, null and void from the beginning, and on the other hand, the committee then enshrined these agreements in Section 3 of the Constitution which is an ironic repudiation of its own legal position.

Therefore, I think we should be allowed to propose amendments to this section consistent with the belief of the committee that there is no agreement at all in legal contemplation.

Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

PERIOD OF AMENDMENTS

MR. RAMA. Madam President, before the motion for suspension, I would just ask that Commissioner Davide be allowed to state his amendment.

MR. DAVIDE. Thank you, Madam President.

I submitted earlier my proposed amendments to the entire Article on the Declaration of Principles consisting of thirteen pages.

My first proposal will be on Section 1, page 1. On line 7, I seek for the insertion of the word "UNITARY" before "republican." On line 9, I seek for the insertion before the word "all" the following: "THEIR WILL AND CONSENT ARE THE ONLY SOURCE OF," then delete the phrase "emanates from them and continues only" on the same line 9.

On line 10, I seek for the deletion of the words "with their consent." So that Section 1 will read as follows: "The Philippines is a UNITARY republican and democratic State. Sovereignty resides in the Filipino people and THEIR WILL AND CONSENT ARE THE ONLY SOURCE OF all government authority."

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Our committee would like to go on luncheon recess now, and we are requesting the other Commissioners who have not yet presented their amendments to us to do so because we are going to meet as a committee at lunch time. With due respect to Commissioner Davide, we would suggest that he continue where he is now ending after lunch time during the period of amendments.

MR. DAVIDE. I second the proposal.

MR. TINGSON. Yes, and the other proposals.

THE PRESIDENT. Commissioner Davide has 13 pages of amendments. Has the committee been furnished with these copies?

MR. DAVIDE. Yes, Madam President.

THE PRESIDENT. They will have enough work.

SUSPENSION OF SESSION

MR. RAMA. Madam President, I ask that we suspend the session until after lunch at two-thirty in the afternoon.

THE PRESIDENT. The session is suspended until two-thirty in the afternoon.

It was 12:11 p.m.

RESUMPTION OF SESSION

At 2:55 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Davide be recognized to present his amendment.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

The proposed amendments on Section 1 had been presented this morning and I would like to find out from the committee its reaction to said amendments.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Before the committee responds, would it be in order if I propose an amendment to the Davide amendment?

THE PRESIDENT. The Commissioner may proceed.

MR. DAVIDE. I would like to find out first the amendments.

MR. AZCUNA. Madam President, on behalf of the committee, I would like to inform Commissioners Davide and Bernas that the committee at its meeting this noon has reformulated Section 1 taking into account some of the proposed amendments, particularly those of Commissioner Davide. As reformulated, Section 1 would now read as follows: "The Philippines is a republican democratic State. Sovereignty resides in the Filipino people and all government authority emanates from them."

We delete the word "and" between "republican" and "democratic," put a period (.) after the word "them" and delete the words "and continues only with their consent." This is a committee amendment based on proposed amendments from the floor submitted to us.

So if there is any proposed amendment, it should be based on this present committee wording.

MR. MONSOD. Madam President, may I have the floor. I have an anterior amendment on what has been stated by the committee.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. My amendment is to delete the word "Filipino" because we are talking about the Philippines and this phrase stands and has been standing in that way and I believe it is very familiar with our students and with our people.

MR. TINGSON. We accept the amendment.

Thank you.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Just a few questions addressed to the committee. When the committee says that "all government authority emanates from them," that is, from the people, is it understood that in order to preserve a government of laws, it is only the public officers who should have the authority that is given to them by law?

MR. AZCUNA. Yes.

FR. BERNAS. And that such authority is limited by law?

MR. AZCUNA. That is correct. Ours is a government of laws and not of men.

FR. BERNAS. And that authority continues only with the consent of the people.

MR. AZCUNA. That is the intendment.

FR. BERNAS. Thank you.

In that case, I will have no amendment.

MR. SARMIENTO. Madam President.

THE PRESIDENT. The Chair asks Commissioner Davide's opinion since he has a proposed amendment to this.

MR. DAVIDE. Just one clarificatory question before I decide to agree to a withdrawal of the proposed amendment.

The question is: Even with the deletion by the committee of the last phrase, it would still necessarily follow that as a republican and democratic government with sovereignty residing in the people and all government authority emanating from the people, such an authority would continue not only in accordance with law or as defined by law or to continue with the consent of the people, but the same may be expressed either by appointment or by election.

MR. SUAREZ. Madam President, may I be recognized for an anterior amendment?

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

It is in connection with the title of the article. I would rather feel comfortable if we only retain the title "Declaration of Principles" and delete the phrase "and State Policies." So, may I formally move for the deletion of this particular phrase and we go back to the captions appearing in the 1935 Constitution?

THE PRESIDENT. What does the committee say?

MR. AZCUNA. In the 1973 Constitution, the title is "Declaration of Principles and State Policies." We feel like retaining "State Policies" because a lot of these provisions we are proposing are not principles but more of basic policies which we want the State to have an orientation towards. Since titles should be reflective of the content, we believe that the words "and State Policies" should be retained. It is not new. It is in the 1973 Constitution.

MR. TINGSON. Madam President, we thought an excellent paper presented by Commissioners Maambong and Suarez divides our report into two – that would be under "principles" and under "policies." For instance, under "principles " would be the declaration that the Philippines is a republican and democratic State; that sovereignty resides in the people; that the Philippines renounces war and adheres to the principle of self-determination. Under "policies," we include the declaration that the Philippines is a nuclear-free country, the policy on the defense of the State, and other policies on the sociopolitical economic system. There are quite a number of articles under "State Policies." As a matter of fact, according to Commissioner Maambong, there are more "state policies" than "principles" in our report.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. May I move that we consider the title after we have finished all the provisions because we do not know yet what will remain after the period of amendments.

THE PRESIDENT. Is the proponent agreeable to that?

MR. SUAREZ. Yes. I would have no objection to that, Madam President.

Thank you.

MR. TINGSON. The committee also agrees, Madam President.

THE PRESIDENT. Is Commissioner Davide through already?

MR: SARMIENTO. Madam President.

THE PRESIDENT. Have we settled Commissioner Davide's problem?

MR. DAVIDE. There was no answer yet from the committee. I was interrupted.

MR. AZCUNA. The committee believes that the sense is still the same that government authority emanates from the people. Naturally, if the people withdraw that authority, then the government would no longer have legal basis for continuing it. But, of course, the manner in which the people will withdraw the authority is defined elsewhere in the Constitution and, as a whole, I would say that the people exercise the sovereignty through elections as well as through their representatives because this is a republican form of government. It may also be done directly by referendum and initiative and recall.

MR. DAVIDE. Thank you for the information.

I am withdrawing the proposed amendment because of the reformulation.

MR. AZCUNA. Thank you.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. We also introduced an amendment sponsored by this Representation, Commissioners Rama, Bacani and Colayco. We distributed copies of that proposed amendment which reads: "THE SOVEREIGN WILL OF THE PEOPLE SHALL BE ASSERTED THROUGH THE SECRET VOTE IN FREE, FAIR, CLEAN AND HONEST ELECTIONS HELD PERIODICALLY."

May I know from the committee if the committee formulation embraces this amendment so that we will not insist with that amendment?

MR. TINGSON. We considered the Commissioner's excellent idea behind his amendment, and so we agree with him that the first sentence should be retained. "The Philippines is a republican democratic State. Sovereignty resides in the people and all government authority emanates from them."

But we feel that we cannot anymore state in Section 1 this amendment: "THE SOVEREIGN WILL OF THE PEOPLE SHALL BE ASSERTED THROUGH THE SECRET VOTE IN FREE, FAIR, CLEAN AND HONEST ELECTIONS . . ." because that is already behind the statement when we stated that the Philippines is a republican democratic State.

MR. SARMIENTO. Thank you for that excellent reply.

May I pose this query? The Commissioner mentioned in the first sentence "republican democratic State." Is there such a thing as a "republican democratic State"? I ask so because our understanding is that we have a republican State, not a concept which is quite strange, quite odd: "republican democratic State." May we be clarified on this concept?

MR. AZCUNA. Yes. There are two forms of democratic state – the republican democratic state and the direct democratic state. There are two forms of democracy – direct democracy and representative or republican democracy.

MR. SARMIENTO. When we speak of republican democratic state, are we referring to representative democracy?

MR. AZCUNA. That is right.

MR. SARMIENTO. So, why do we not retain the old formulation under the 1973 and 1935 Constitutions which used the words "republican state" because "republican state" would refer to a democratic state where people choose their representatives?

MR. AZCUNA. We wanted to emphasize the participation of the people in government.

MR. SARMIENTO. But even in the concept "republican state," we are stressing the participation of the people. Let me quote the words of Jose P. Laurel in his book, *Bread and Freedom, The Essentials of Popular Government*. He said:

> That when we refer to popular government or republican government or representative democracy, we refer to some system of popular representation where the powers of government are entrusted to those representatives chosen directly or indirectly by the people in their sovereign capacity.

So the word "republican" will suffice to cover popular representation.

MR. AZCUNA. Yes, the Commissioner is right. However, the committee felt that in view of the introduction of the aspects of direct democracy such as initiative, referendum or recall, it was necessary to emphasize the democratic portion of republicanism, of representative democracy as well. So, we want to add the word "democratic" to emphasize that in this new Constitution there are instances where the people would act directly, and not through their representatives.

MR. SARMIENTO. In which case, may I propose that we restore the word "and" to distinguish popular representation from direct participation of the people? Let us restore the old committee formulation, "republican and democratic State," to stress or to give emphasis.

MR. AZCUNA. The committee agrees.

MR. SARMIENTO. Thank you.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. The same point, Madam President.

MR. AZCUNA. The same answer.

THE PRESIDENT. The same resolution.

Will Commissioner Azcuna please read the new formulation?

MR. AZCUNA. The new formulation of Section 1 reads as follows: "The Philippines is a republican and democratic State. Sovereignty resides in the people and all government authority emanates from them."

VOTING

THE PRESIDENT. Is there any comment? Are we ready to vote on this amendment that has been submitted by the committee which considered all the other amendments proposed by the Commissioners?

As many as are in favor of Section 1 as read by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against please raise their hand. *(No Member raised his hand.)*

The results show 35 votes in favor and none against; so Section 1 is approved.

MR. RAMA. Madam President, may I ask that Commissioner Davide be recognized to amend Section 2.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Madam President.

These are very simple amendments.

On Section 2, line 11, add after "to" at the end of the line the following: "THE PURSUIT OF TRUTH, JUSTICE." Then on line 12, it is just a transposition. We just transpose "freedom" before "peace," so that it will read: "freedom, peace and equality." Section 2 will now read: "The Filipino people commit themselves to THE PURSUIT OF TRUTH, JUSTICE, freedom, peace and equality." That is the first sentence. This is jointly authored by Commissioner Rama and this Representation.

THE PRESIDENT. Is the first sentence accepted?

MR. TINGSON. We cannot accept the addition of the words "TRUTH" and "JUSTICE" in this particular section of our committee report, because this particular section of our committee report refers to foreign policy and those two words would not necessarily come in consonance with what we are trying to say there. Besides, the words "TRUTH, JUSTICE" are prominently mentioned in our Preamble.

THE PRESIDENT. Is that satisfactory, Commissioner Davide?

MR. DAVIDE. Madam President, this is not just a declaration of a foreign policy; this is a declaration of a firm commitment to the ideals of truth, justice, freedom, equality and peace. Justice is not just a matter of foreign policy. To me, it is the aspiration of all peoples of the world. We cannot have freedom, we cannot have equality, we cannot have peace without justice. We cannot have justice without truth. So, it is, in fact, the totality of the universal aspiration of man. If the reason is that it is in the Preamble, we would rather delete Section 2 because freedom, peace and equality are already there.

So, this is just to arrive at a point of symmetry. One is a priority, the second is a commitment by way of declaration of principles.

MR. TINGSON. Could we make a compromise? We will accept the Commissioner's proposed word "JUSTICE" but let us not mention "TRUTH" anymore.

MR. DAVIDE. Does it mean that we are not pursuing "TRUTH" as a goal? I would agree; after all, JUSTICE is included in "TRUTH," indirectly but not categorically.

Thank you.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I would like to support the inclusion of "TRUTH" in that section, since it is said that this is already the age of information. But even as we are in an age of information, there is a great deal of disinformation in international affairs. So I feel that the inclusion of this search for "TRUTH" is an important aspect of our foreign policy.

Thank you, Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, will the proponent or the committee include either the word "PROGRESS" or "PROSPERITY" after the word "peace"? We know that a man in his home or in his office may have peace, even freedom and justice but if there is no policy of betterment, improvement, progress or prosperity, he may not be a happier man. He may be stagnant in his enjoyment of freedom and peace. I believe that if it is a policy or an aspiration of the people, we should have a word like "PROGRESS" or "PROSPERITY" after "peace." In several other occasions, Madam President, many of the Commissioners have already used the word "PROGRESS" unintentionally. We take out the word "and" after the word "peace" then add "AND PROGRESS."

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I remember that Commissioner Padilla wanted the insertion of the word "PROGRESS" even in the Preamble. In the earlier stages, we rejected that particular proposal but we found out that when the Commission worked on several other proposals, progress became a necessary element in national development. And so, I am willing to accept that particular amendment even if it is merely "THE PURSUIT OF PROGRESS." I am accepting the amendment wholeheartedly.

THE PRESIDENT. How about the word "TRUTH"?

MR. DAVIDE. I conceded to the committee that it should not be included anymore.

MR. PADILLA. Will the committee agree with Commissioner Davide on the insertion of the words "AND PROGRESS"?

FR. BERNAS. Madam President.

MS. AQUINO. Madam President, we welcome other opinions from the other Members of the Commission on the amendment of Commissioner Padilla. The committee is not yet prepared to make a stand on the Commissioner's amendment.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. I find it very difficult to find the connection between the first sentence with the second sentence despite the amendment. For that reason, I would ask for the deletion of the first sentence.

MR. BENGZON. If that is a motion, Madam President, I second it.

MR. TINGSON. The committee accepts the amendment; that is, the deletion of the first sentence.

MR. SUAREZ. Madam President, may I be recognized?

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Considering the position taken by the members of the committee which is very meritorious, may we amend the use of the pronoun "they" and instead insert the words "THE PHILIPPINES" or "THE FILIPINO PEOPLE."

Thank you.

MR. BENGZON. I join Commissioner Suarez in that motion.

THE PRESIDENT. What does Commissioner Davide say?

MR. DAVIDE. Madam President, with all due respect to the last stand of the committee which had in the first place solemnly enshrined the first sentence in Section 2, I vigorously object to the amendment by deletion. The only reason given on why it should be deleted is that it has no connection with the second sentence. It is now a matter of what should be given priority. Is it the first sentence or the second sentence, because both are significant? As a matter of fact, to me, it is the second sentence that would have been unnecessary because if we commit ourselves to the pursuit of truth, justice, peace, equality, freedom and progress, necessarily we will renounce war. It is peace that is there. Peace is inconsistent with war.

So, I would propose, as an amendment to the proposed amendment to delete, that we separate these sentences into separate paragraphs – the first sentence as the first paragraph and the second sentence as the second paragraph of Section 2. So, even if there appears to be no continuity, yet these are two very important principles.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. It is not just that there is no connection between the two or at least there is no obvious connection, but that it does not seem to be necessary, especially considering the fact that all of these are found in the Preamble anyway. All of these we have solemnly declared in the Preamble and our Preamble, I think, means something also.

MR. TINGSON. Madam President.

THE PRESIDENT. Does the committee need some time?

SUSPENSION OF SESSION

MR. TINGSON. Yes, we would like to have a minute or two of suspension please.

THE PRESIDENT. The session is suspended for a few minutes.

It was 3:21 p.m.

RESUMPTION OF SESSION

At 3:24 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Madam President.

The committee has now come up with this formulation of Section 2 which is Section 3 of the 1973 Constitution, as proposed by Commissioner Bengzon in his resolution submitted to the committee. This reads as follows: "THE PHILIPPINES RENOUNCES WAR AS AN INSTRUMENT OF NATIONAL POLICY, ADOPTS THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AS PART OF THE LAWS OF THE LAND AND ADHERES TO THE POLICY OF PEACE, EQUALITY, JUSTICE, FREEDOM, COOPERATION AND AMITY WITH ALL NATIONS."

MR. SARMIENTO. Madam President.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized first.

MR. SARMIENTO. Madam President, we also introduced an amendment sponsored by this Representation, Commissioners Rama, Bacani and Colayco after the word "land" in the original committee formulation. We proposed the addition of the following: "AND WELCOME CULTURAL, SOCIAL AND ECONOMIC RELATIONS WITH ALL NATIONS IRRESPECTIVE OF IDEOLOGY, RACE OR CULTURE." May we know the stand of the committee on this proposed amendment? Is this covered by the committee's reformulated section?

MR. AZCUNA. Madam President, we feel that it is already embraced in the new formulation now where we have "COOPERATION AND AMITY WITH ALL

NATIONS." So, that covers relations with all nations regardless of ideology, race or culture, because it is "ALL NATIONS."

MR. SARMIENTO. So, we will not insist on our proposed amendment.

MR. AZCUNA. Thank you.

MR. SARMIENTO. Then one last point. I notice that we have retained Section 3 of the 1973 Constitution and Commissioner Bernas is very thankful because he will not be revising his book on political law, *Philippine Constitutional Law.*

I notice that we have an enumeration of concepts like peace, equality, justice, freedom, cooperation and amity. May I know from the committee if these concepts cover the word "love" because here we renounce war; make love not war?

MR. AZCUNA. Yes, love being the willingness of good for others is embraced in "AMITY."

MR. SARMIENTO. Thank you, Madam President.

MR. AZCUNA. The Gentleman is welcome.

THE PRESIDENT. How about Commissioner Bernas?

FR. BERNAS. In the light of the reformulation made by the committee, I am withdrawing my amendment.

THE PRESIDENT. What does Commissioner Davide say?

MR. DAVIDE. In the light of the reformulation by the committee of this section, I am also withdrawing the amendments to the first sentence.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. May I be allowed to inquire from the committee because, depending on the answer, I may not have to introduce an amendment. When we speak of "laws of the land," do we refer to statutory laws and constitutional law? As I have observed earlier, I believe the principles and provisions of international law, both customary and conventional, should not be placed at par with the provisions of our Constitution in this jurisdiction because there could be conflicts between the provisions of treaties, for example, and the express provisions in our Constitution.

I cited an example about the ownership ratio with respect to corporations operating public utilities where our Constitution expressly provides a 60-40 ratio. Suppose a treaty provision provides for a majority participation of Filipinos, if we were to refer to the treaty provisions as part of our statutory laws only, then there would be no problem because a conflict in the two provisions would inevitably result in the unconstitutionality of the treaty provision. So, I would like to ask the members of the committee whether or not in referring to "the laws of the land" we mean both the statutory and constitutional laws.

MR. AZCUNA. May I answer that for the committee? When we talk of the generally accepted principles of international law as part of the laws of the land, we mean that it is part of the statutory type of laws, not of the Constitution.

MR. GUINGONA. I see. Thank you very much.

MR. AZCUNA. Yes, Madam President.

MR. RAMA. Madam President, there are no registered speakers on the section.

THE PRESIDENT. Are we ready to vote?

MR. RAMA. We are ready to vote.

THE PRESIDENT. Will Commissioner Azcuna please read again?

MR. AZCUNA. It shall read: "THE PHILIPPINES RENOUNCES WAR AS AN INSTRUMENT OF NATIONAL POLICY, ADOPTS THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AS PART OF THE LAW OF THE LAND, AND ADHERES TO THE POLICY OF PEACE, EQUALITY, JUSTICE, FREEDOM, COOPERATION AND AMITY WITH ALL NATIONS."

VOTING

THE PRESIDENT. As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 37 votes in favor, no vote against and no abstentions; Section 2, as amended, is approved.

MR. RAMA. Madam President, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. AZCUNA. Madam President, before we recognize any proposal for amendment, the committee has amended this. May we inform the body on the present wording of Section 3 as amended by the committee?

THE PRESIDENT. May we have the rewording?

MR. AZCUNA. The committee has amended the second paragraph of Section 3. The first paragraph remains as is.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Regardless of the amendment of the committee, I think I have an anterior amendment. My amendment is to delete Section 3. A motion to delete has precedence, Madam President.

THE PRESIDENT. Commissioner Azcuna is about to read the new formulation. So, we will just allow him to read.

MR. AZCUNA. Yes. This is just a new formulation, so this will be what Commissioner Rodrigo will be deleting, if he wants.

The second paragraph reads: "The State has the inherent right to self-determination, national independence and sovereignty. TO ENSURE THE INTEGRITY OF SUCH RIGHT, FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN THE PHILIPPINE TERRITORY EXCEPT UNDER TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE, RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING NATION."

That is the proposal and the transitory portion connected to that has also been amended to read as follows: "UPON THE EXPIRATION OF THE RP-US BASES AGREEMENT IN 1991, U.S. MILITARY BASES, TROOPS AND FACILITIES SHALL NOT BE ALLOWED EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE II (DECLARATION OF PRINCIPLES)."

This is the majority position of the committee. There was a minority view which preferred to transfer this portion to the Transitory Provisions.

MR. DE CASTRO. The minority view, Madam President, is for the deletion of the original Section 3 and a reformulation that in the event that the RP-US Military Bases Agreement will be extended after 1991, the treaty shall be reviewed and ratified by the people.

MR. AZCUNA. Yes. May we just add that this reformulation of the present wording of the second paragraph of Section 3 is based on the Bernas amendment being proposed to the committee.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. I move for the deletion of Section 3 found on pages 1 and 2 of Committee Report No. 36 and the provision found on page 5, denominated "Portion for Inclusion in Transitory Provisions." I have already given my reasons in the speech which I delivered during the period of debate and added to those were the arguments adduced in the speeches of other Commissioners who spoke in support of my stand.

It is only now, for the first time, that I found out that this has been amended by the committee – by a majority of the committee, with a minority dissenting vote. I also move for the deletion even of that amended provision by the committee for the same reason that decision on this matter should be left to the government, particularly to the executive. And, I repeat, in the treaty itself, there is a provision for its renegotiation and reassessment in 1988 or 1989. We should not close the door to that. And, I might add, I am also in favor of presenting to our people in a referendum, for approval or disapproval, the renegotiated treaty after the renegotiation and reassessment in 1988 and 1989. I do not believe in imposing, by means of this Constitution, so many conditions on the government. Who are we to impose so many conditions on the government? Remember that we are only appointive Commissioners. The government is headed by the President. If the present President is still the President in 1988 or 1989, the people believe that she was elected in the snap election. If there should be another President, said President will have been elected by the people. And we will have Congress composed of Senators elected at large and Members of the House elected by the people from their respective districts. Let us not preempt them on this matter. And so, I move for the deletion of Section 3, as originally stated in Committee Report No. 36, and the portion denominated "Portion for Inclusion in Transitory Provisions," more particularly line 15 on page 1 of the report up to line 2 of page 2 and on page 5, lines 28 to 31. I also move, in case the committee is rewording this, for the deletion of the sections as amended by a majority of the committee.

MR. AZCUNA. The committee rejects the motion to delete, Madam President, and we reiterate the Bernas amendment which we have accepted.

MR. RODRIGO. In that case, Madam President, I think we have discussed this matter lengthily and sufficiently enough – as a matter of fact, too much – and so I ask for a vote.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Since the reformulation is largely the one I suggested, before we vote, may I just be allowed to say a few words against the deletion. But before that, let me say that since we will definitely vote on the deletion, I move that the vote be paragraph by paragraph, not one vote for Section 3 and one vote for the Transitory Provisions, but two votes for Section 3 and a third vote for the Transitory Provisions.

I would like to say a few words about the second paragraph. The second paragraph as presently formulated does not bar renegotiation. It says: "TO ENSURE THE INTEGRITY OF SUCH RIGHT"; namely, integrity, independence and sovereignty, "FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN THE PHILIPPINE TERRITORY EXCEPT UNDER TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE."

That, therefore, says that renegotiations are in order because the normal process of a formulation of a treaty starts with negotiation by the executive department and then is eventually followed by submission to the Senate for its concurrence. So it does not bar renegotiation.

Second, the other condition is that whatever the Senate concurs in shall be ratified by a majority vote of the votes cast by the people in a referendum held for that purpose.

The presence of military forces in a sovereign territory is something that is of transcendental importance. Hence, whether or not military bases or foreign troops should be kept in our nation is something that should be decided not just by the government but also by the people themselves whom, in the very first section we just approved in this Declaration of Principles, we recognize as the possessor of ultimate sovereignty in our nation. So, we should not deprive our people of the right to decide their destiny.

We said in Section 1 that aside from the fact that our government is a republican state, that is, a representative government, we also say that it is a democratic state because we have included in our Constitution some elements of direct democracy. We recognize now the importance of periodic consultation of the will of the Filipino people on matters that are very important. We are not satisfied just with election. The fact that we elect our representatives is not an act of complete trust in our representatives; we always retain the right to review their decisions. This matter of military bases is one where we make a reservation because it touches the very heart of our nation; it can affect the survival of our people and the survival of our nation.

Our people have a right to know; our people have a right to be defended against those who may wish to impose their will on them.

Third, on the last phrase "AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING NATION," we enter into a treaty and we want the other contracting party to respect that document as a document possessing force in the same way that we respect it. The present situation we have is that the bases agreement is a treaty as far as we are concerned, but it is only an executive agreement as far as the United States is concerned, because the treaty process was never completed in the United States because the agreement was not ratified by the Senate.

So, for these reasons, I oppose the deletion of this section because, first of all, as I said, it does not prevent renegotiation. Second, it respects the sovereignty of our people and the people will be in a better position to judge whether to accept the treaty or not, because then they will be voting not just on an abstraction but they will be voting after examination of the terms of the treaty negotiated by our government. And third, the requirement that it be recognized as a treaty by the other contracting nation places us on the same level as any other contracting party.

It will probably be said that, if at all, this should go to the Transitory Provisions. I would say that it should not go to the Transitory Provisions because this is not a provision that is of a transient character.

We place in the Transitory Provisions those provisions which self-destruct upon the passage of time. This is not a provision which will self-destruct. This is a provision which will apply to the future, whether we are dealing with the Russians, the Japanese, the Chinese, the Vietnamese, the Americans or anybody.

If at all, if we approve this, the sponsorship committee could very well transfer this to Section 21 of the Article on the Executive where we deal with treaties. In other words, what this will mean is that, when it comes to military bases in our nation, for the international agreement to be valid, it is not enough that it be a treaty; it is further required that it be ratified by the people, in much the same way that we had to go through a process of ratification when we allowed the parity rights of the Americans.

Thank you, Madam President.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. There were two matters raised by Commissioner Bernas. The first is for us to vote on these matters piecemeal. I oppose that. I think that these provisions are so intimately interrelated that they have to be dealt with jointly.

The second is: I insist on a deletion. I am informed that there is a group consisting of a majority of Commissioners who want to present their own substitute provision. I think it would not be fair to those other Commissioners if they are preempted.

So, I think the best procedure is to delete. Let us first erase the blackboard, as it were, so we can start from *tabula rasa.* Then allow the Commissioners to submit their proposals, instead of being preempted by an amendment already prepared by Commissioner Bernas, which I heard only now. I think we should start from scratch, in fairness to all the Commissioners.

So, I insist on a vote on my motion to delete.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. We have with us a proposed amendment signed by 26 Commissioners. It is, in effect, a deletion of the original wording. In short, the proper subject matter now would be substitution.

The whole of Section 3 will have to be deleted but to be substituted. So, we cannot vote separately by, first, deletion and then later, insertion of a new one. It should be a vote on deletion or amendment by substitution which in effect would amount to a deletion of the original wording.

MR. RODRIGO. Madam President, I am not a signer of that proposal. I was asked to sign that. I said "No, I am not signing it because I am the proponent of an amendment by deletion."

So, I think the best procedure is, as I said, like a blackboard, erase what is now written and give a chance to everybody to write anew. Anyway, what do we lose by so doing?

I ask that we vote on my motion to delete, Madam President.

MR. DAVIDE. No, Madam President.

SR. TAN. Madam President.

THE PRESIDENT. Excuse me, Commissioner Tan.

SR. TAN. I think this is railroading. I did not want to say this, but now I have to say it. I have heard this argument so many times. The first is, "Let us not tie the hands of the President." I think that is sheer hypocrisy. We have tied her hands in everything, from the economy to the language to the urban poor and now we say,"Let us not tie the hands." That is sheer and selective hypocrisy.

MR. NOLLEDO. Madam President.

THE PRESIDENT. May the Gentleman please allow Sister Tan.

SR. TAN. "We were just appointed, so let those who are elected. . ." In my memory, in my experience, I have no positive impression of those who were elected. The impression that those who have been elected all of a sudden become embodiments of wisdom and integrity. That is not my experience. *(Applause)*

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. RODRIGO. Madam President.

MR. NOLLEDO. I join Commissioner Davide's opposition to the motion of Senator Rodrigo. In fact, that Senator Rodrigo adopted the motion makes him a party to the motion to delete and substitute. So, I think Commissioner Davide is correct.

MR. RODRIGO. Madam President, may I speak on a matter of privilege first?

THE PRESIDENT. Please proceed.

MR. RODRIGO. I hate to say this but may I request Commissioner Tan to withdraw the word "hypocrisy"? I think it is unparliamentary, especially coming from a Sister of Charity.

Madam President, I would not want to ask for the deletion of that unparliamentary word. I just wanted to place my reaction on record.

Madam President, may I ask that we vote on my motion to delete.

THE PRESIDENT. All right. Is there any objection?

MR. DAVIDE. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. There was an admission by Commissioner Rodrigo that there is a substitute proposal for Section 3. My question then is: Suppose the particular motion to delete will be acted upon favorably, would it foreclose any Member of the Commission to introduce a new one in lieu of the vacant Section 3?

MR. RODRIGO. No.

THE PRESIDENT. Commissioner Rodrigo is answering the Commissioner's questions already: it will not foreclose.

MR. RODRIGO. It will not foreclose.

THE PRESIDENT. In other words, it will open, if it is deleted.

MR. RODRIGO. It will open. It will precisely open the door. We can then start from what we call *tabula rasa* – a clean slate.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. An amendment to delete removes the entire section.

THE PRESIDENT. The original section.

MR. DAVIDE. Yes. So, technically, it cannot anymore be open for any possible amendment to be placed there. And that is the reason why my proposal is that the particular amendment of Commissioner Rodrigo must be considered merely as an amendment by substitution.

I hope that any of the proponents of this substitute proposal will come to the rescue. We might be technically foreclosed in presenting this.

May I request a suspension of the session?

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 3:53 p.m.

RESUMPTION OF SESSION

At 4:32 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Rodrigo be recognized.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Madam President, I have a pending motion for deletion.

THE PRESIDENT. Will Commissioner Rodrigo please clarify his motion?

MR. RODRIGO. On the basis of the original Committee Report No. 36, I move to delete Section 3, from line 15 on page 1 up to line 2 on page 2, and the section denominated "Portion for Inclusion in Transitory Provisions" found on page 5, lines 28 to 31.

THE PRESIDENT. Is this particular portion in Section 27 necessarily included?

MR. RODRIGO. No, Section 27 is not included.

THE PRESIDENT. No, I mean this portion denominated "Portion for Inclusion in Transitory Provisions," lines 28 to 31.

MR. RODRIGO. Yes.

THE PRESIDENT. Is that an accompanying motion?

MR. RODRIGO. They are inseparable. This is so intimately interrelated with Section 3 that they have to be dealt with together.

THE PRESIDENT. After conferring with all the parties, the Chair rules . . .

FR. BERNAS. Madam President, before the Chair rules, may I just ask for a clarification of the motion?

THE PRESIDENT. Please proceed.

FR. BERNAS. Do I understand Commissioner Rodrigo to say that he is asking for the deletion of the original as found in the original committee report?

MR. RODRIGO. Yes.

FR. BERNAS. Not the reformulation?

MR. RODRIGO. It is only now that I heard the reformulation. If the reformulation be the status now, I also move, and I so move for its deletion.

THE PRESIDENT. We will go into that. We do not know yet what will happen with the first motion to delete the original, as originally placed.

FR. BERNAS. Madam President, to clarify that point, I am temporarily withdrawing my amendment to Section 3.

THE PRESIDENT. In other words, Section 3 stands as originally written by the committee.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. The committee, therefore, withdraws the acceptance of the Bernas amendment and we will insist on our original formula in Section 3.

MR. RODRIGO. And there is no amendment yet to the "Portion for Inclusion in the Transitory Provisions."

THE PRESIDENT. No, excuse me. We will first vote on the motion to delete Section 3 in the Transitory Provisions on page 5. And the ruling of the Chair is that should this motion to delete win, it will not preclude anyone, any Commissioner or the committee from submitting a new formulation of Section 3. That is the ruling of the Chair and that may guide those who will vote on the motion to delete.

MR. RODRIGO. For the record, Madam President, I concur with that ruling of the Chair and I so stated during the debate.

THE PRESIDENT. Since sufficient arguments have been submitted for the last two days on the statement of Commissioner Rodrigo as his basis for his motion to delete, we will proceed to vote.

MR. GASCON. Madam President, I would like to make a motion for nominal voting.

THE PRESIDENT. On the motion to delete?

MR. GASCON. Yes, Madam President.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. May I request a further clarification. Will this be a vote of yes and no? If it is, what will the vote yes represent?

MR. RODRIGO. Yes is for deletion.

MR. DE CASTRO. Yes is for deletion; no is for the retention of the provisions as formulated by the committee?

MR. RODRIGO. Yes. Yes is a vote in favor of my motion to delete.

MR. DE CASTRO. And no is for the retention of Section 3?

MR. RODRIGO. Section 3 and the Transitory Provisions.

THE PRESIDENT. Without prejudice to any amendment or reformulation of that original committee report.

MR. DE CASTRO. Thank you, Madam President.

MR. RODRIGO. That is correct.

NOMINAL VOTING

MR. RAMA. I move for a nominal voting on the motion to delete.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

FIRST ROLL CALL

THE PRESIDENT. The body will now vote on the motion to delete, and the Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar		Natividad	Yes
Alonto		Nieva	
Aquino	No	Nolledo	No
Azcuna	No	Ople	
Bacani	Yes	Padilla	Yes
Bengzon	Yes	Quesada	No
Bennagen	No	Rama	Yes
Bernas	No	Regalado	Yes
Rosario Braid	No	Reyes de los	Yes
Calderon	Yes	Rigos	Yes
Castro de	Yes	Rodrigo	Yes
Colayco		Romulo	Yes
Concepcion	Yes	Rosales	Yes
Davide	No	Sarmiento	No
Foz	No	Suarez	No
Garcia	No	Sumulong	Yes
Gascon	No	Tadeo	
Guingona	Yes	Tan	
Jamir	Yes	Tingson	Yes
Laurel		Treñas	
Lerum		Uka	Yes
Maambong	Yes	Villacorta	No
Monsod	Yes	Villegas	Yes

Is Madam President voting?

THE PRESIDENT. No, I am not voting.

SECOND ROLL CALL

THE PRESIDENT. The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Yes	Nieva	Yes
Alonto	Yes	Ople	Yes
Colayco	Yes	Tadeo	
Laurel		Tan	No
Lerum	Yes	Treñas	Yes

THE PRESIDENT. The results show 29 votes in favor, 15 against, and no abstention; the motion to delete is approved.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. May I be recognized to propose a substitute now, pursuant to the original ruling that the deletion will not preclude the possibility of a substitution.

THE PRESIDENT. Please proceed.

FR. BERNAS. I would like to substitute the second paragraph of the reformulated provision which was withdrawn and which reads: "THE STATE HAS THE INHERENT RIGHT TO SELF-DETERMINATION, NATIONAL INDEPENDENCE AND SOVEREIGNTY. TO ENSURE THE INTEGRITY OF SUCH RIGHT, FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN PHILIPPINE TERRITORY EXCEPT UNDER TERMS OF THE TREATY DULY CONCURRED IN BY THE SENATE, RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS SUCH BY THE OTHER CONTRACTING NATION."

MR. ROMULO. Would Commissioner Bernas accept an amendment to his new provision?

FR. BERNAS. I will listen to the amendment.

MR. ROMULO. It will read as follows: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. WHEN ENTERING INTO EXECUTIVE AGREEMENTS, TREATIES AND OTHER INTERNATIONAL AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, THE NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION."

FR. BERNAS. I would be willing to accept the first sentence, but the second sentence falls short of some of the elements which I would like to introduce. So, perhaps, a conference might be in order.

MR. ROMULO. Yes.

SUSPENSION OF SESSION

MR. AZCUNA. May I ask for a suspension?

THE PRESIDENT. The session is suspended.

It was 4:43 p.m.

RESUMPTION OF SESSION

At 5:17 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. RAMA. Madam President, I ask that Commissioner Bernas be recognized.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Madam President, we identified the points of agreement and we also identified the points of disagreement and these points of disagreement we will throw to the floor for decision.

In the first place, I accepted the first sentence of their substitute amendment: namely, "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY." So, since this is a provision by itself in the general provision, I wonder if we could discuss this separately, approve it separately from the rest; get it out of the way, in other words.

THE PRESIDENT. May the Chair be clarified first by the chairman of the committee or Commissioner Azcuna. Do we now have a first paragraph in Section 3?

MR. AZCUNA. We have a pending anterior amendment which will be articulated by Commissioner Suarez. We ask that he be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

This is an anterior amendment to that submitted by Commissioner Bernas and this is in connection with Section 3. We propose this amendment by substitution to paragraph (1) of Section 3, and it would read: "THE STATE HAS THE RIGHT TO SELF-DETERMINATION AND SHALL PURSUE AN INDEPENDENT FOREIGN POLICY AND ENDEAVOR TO PROMOTE A ZONE OF PEACE, FREEDOM, AND NEUTRALITY IN THE REGION. WHEN ENTERING INTO TREATIES OR INTERNATIONAL OR EXECUTIVE AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY AND THE NATIONAL INTEREST."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I believe that that formulation partakes of a reformulation of the ideas and subject of the first paragraph that has been deleted and partakes of a reconsideration.

MR. SUAREZ. We realize that, Madam President, but we are submitting this reformulated principle pursuant to what was agreed upon on the floor that any one of the Commissioners would be free to submit a reformulated provision.

MR. MONSOD. But that is not a reformulation, Madam President; the idea is exactly the same as the provision that was deleted.

THE PRESIDENT. Yes, but the ruling of the Chair was that anyone can present a new or whatever formulation of the section. In fact, the Chair was expecting the committee to do so.

MR. ROMULO. May we submit it to a vote, Madam President?

THE PRESIDENT. Which shall we submit to a vote?

MR. SUAREZ. May we know the stand of the committee first before we submit to a vote?

MR. AZCUNA. The committee accepts, Madam President.

MR. ROMULO. The amendment of Commissioner Suarez which the committee accepted.

MR. DE CASTRO. Madam President, the minority view here does not accept.

MR. SUAREZ. The committee speaks in two voices.

THE PRESIDENT. The Chair understands that the committee is divided on all these points.

MR. AZCUNA. The committee is like a symphony; it has a dominant and a subtonic voice.

MR. TINGSON. But, Madam President, both of them result in harmony, we hope.

MR. ROMULO. May we request a vote?

MR. SUAREZ. May we thank both sides of the committee, Madam President.

MR. ROMULO. Yes. We are ready to vote, Madam President.

THE PRESIDENT. May we have it again?

MR. SUAREZ. This is the proposal we are submitting for consideration by the honorable Members of the Commission: "THE STATE HAS THE RIGHT TO SELF-DETERMINATION AND SHALL PURSUE AN INDEPENDENT FOREIGN POLICY AND ENDEAVOR TO PROMOTE A ZONE OF PEACE, FREEDOM AND NEUTRALITY IN THE REGION. WHEN ENTERING INTO TREATIES OR INTERNATIONAL OR EXECUTIVE AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY AND THE NATIONAL INTEREST."

VOTING

THE PRESIDENT. Does anyone have any comment on this? Are we ready to vote?

As many as are in favor of the first paragraph of Section 3 as read by Commissioner Suarez, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 17 votes in favor, 27 votes against and no abstention; the proposed first paragraph is lost.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. To go back now to the result of our conference, the first sentence reads: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY," and as stated initially, I would request that this be considered and approved separately.

THE PRESIDENT. As the first sentence of Section 3?

FR. BERNAS. Yes, Madam President.

THE PRESIDENT. Is the committee agreeable that we vote only on the first sentence?

MR. AZCUNA. Yes, Madam President.

MR. DE CASTRO. The minority view accepts, Madam President.

THE PRESIDENT. Is there any objection to this first sentence of Section 3 which has been unanimously accepted by the committee? *(Silence)* The Chair hears none; the amendment is approved.

May we have the second sentence?

FR. BERNAS. The second sentence is a reformulation of the original reformulation: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY EXCEPT UNDER THE TERMS OF THE TREATY DULY CONCURRED IN BY THE SENATE, RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE."

MR. AZCUNA. The committee accepts.

MR. ROMULO. Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Prior to that, we have three points of disagreement on this suggested provision. Firstly, we would like it to be in the Transitory Provisions. Secondly, we would qualify the paragraph with the opening phrase: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991." And thirdly, we would leave the question of whether or not it should be ratified in a referendum by the people up to Congress. So, those are our three points of divergence.

FR. BERNAS. Madam President, may I request that we discuss the question of Transitory Provisions or Declaration of Principles last? In other words, we discuss first the substance and the merits and then later on we shall discuss whether to put it in the Declaration of Principles or in the Transitory Provisions; and having decided that, then we make whatever changes may be necessary if we have to transfer it to the Transitory Provisions.

The position I would be taking is that this is not a transitory principle but a principle that will remain in force for as long as it is not deleted from the Constitution. These three requirements that military bases can be allowed only by a treaty and the treaty must be duly concurred in by the Senate must be ratified in a referendum, and must be accepted as such by the other contracting State. But the other matter we can discuss later on.

MR. ROMULO. Yes. As I said, our disagreement is with regard to the transitory nature of this provision. It is our feeling, Madam President, that this is a contingent, transitory or temporary matter. To put it in the main declaration would seem to imply that we would have foreign bases forever. And what we wish to emphasize by putting it in the Transitory Provisions is precisely that we are dealing only with the American bases which we hope, even if a new treaty is entered into, will be dismantled as soon as practicable.

FR. BERNAS. On the other hand, Madam President, if we place it in the Transitory Provisions and mention only the American State, the conclusion might be drawn that this applies only to foreign military bases of the United States. The conclusion might be drawn that the principle does not apply to other states.

MR. ROMULO. That is certainly not our meaning. We do not wish any other foreign military base here and I think the phrase which says: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES. . ." makes that very clear even if it is in the Transitory Provisions.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will either of the two Gentlemen yield to just one question for clarification? Is there anything in this formulation, whether that of Commissioner Bernas or of Commissioner Romulo, that will prevent the Philippine government from abrogating the existing bases agreement?

FR. BERNAS. To my understanding, none.

MR. ROMULO. I concur with Commissioner Bernas.

MR. OPLE. I was very keen to put this question because I had taken the position from the beginning — and this is embodied in a resolution filed by Commissioners Natividad, Maambong and Regalado — that it is very important that the government of the Republic of the Philippines be in a position to terminate or abrogate the bases agreement as one of the options. And the reason we have put this forth is that we do not believe in merely a renegotiation of the existing bases agreement if it comes to that. We believe that this is flawed from the beginning, which is not the same thing as saying that it is a nullity. But I think we have acknowledged starting at the committee level that the bases agreement was ratified by our Senate; it is a treaty under Philippine law. But as far as the Americans are concerned, the Senate never took cognizance of this and, therefore, it is an executive agreement. That creates a wholly unacceptable asymmetry between the two countries. Therefore, in my opinion, the right step to take, if the government of our country will deem it in the national interest to terminate this agreement or even to renegotiate it, is that we must begin with a clean slate; we should not be burdened by the flaws of the 1947 Military Bases Agreement. I think that is a very important point. I am glad to be reassured by the two Gentlemen that there is nothing in these proposals that will bar the Philippine government at the proper time from exercising the option of abrogation or termination.

Thank you, Madam President.

MR. ROMULO. Madam President, I think the two phrases in the Bernas formulation take care of Commissioner Ople's concerns.

The first says "EXCEPT UNDER THE TERMS OF A TREATY." That means that if it is to be renegotiated, it must be under the terms of a new treaty. The second is the concluding phrase which says: "AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE."

FR. BERNAS. I might also add, Madam President, that as far as the present agreement is concerned, there is nothing to prevent the government from rejecting this treaty under the principle of *rebus sic stantibus,* if there are grounds under that principle.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

May we clear up some points from Commissioner Bernas?

THE PRESIDENT. Please proceed.

MR. SUAREZ. Is the proposal prospective and not retroactive in character?

FR. BERNAS. Yes, it is prospective because it does not touch the validity of the present agreement. However, if a decision should be arrived at that the present agreement is invalid, then even prior to 1991, this becomes operative right away.

MR. SUAREZ. In other words, we do not impress the previous agreements with a valid character, neither do we say that they are null and void *ab initio* as claimed by many of us here.

FR. BERNAS. The position I hold is that it is not the function of this Commission to pass judgment on the validity or invalidity of the subsisting agreement.

MR. SUAREZ. Thank you for the clarification.

The other point is that the proposal requires recognition of this treaty by the other contracting nation. How would that recognition be expressed by that other contracting nation? That is in accordance with their constitutional or legislative process, I assume.

FR. BERNAS. As Commissioner Romulo indicated, since this certainly would refer only to the United States, because it is only the United States that would have the possibility of being allowed to have treaties here, then we would have to require that the Senate of the United States concur in the treaty because under American constitutional law, there must be concurrence on the part of the Senate of the United States to conclude treaties.

MR. SUAREZ. Thank you for the clarification.

Under the 1935 Constitution, if I recall it correctly, treaties and agreements entered into require an exchange of ratification. I remember that is how it was worded. We do not have in mind here an exchange of ratification by the Senate of the United States and by the Senate of the Philippines, for instance, but only an approval or a recognition by the Senate of the United States of that treaty.

FR. BERNAS. When I say that the other contracting state must recognize it as a treaty, by that I mean it must perform all the acts required for that agreement to reach the status of a treaty under their jurisdiction.

MR. SUAREZ. Without need of an exchange of ratification?

FR. BERNAS. Madam President, exchange simply means that the two have ratified it. It is not a physical exchange.

MR. SUAREZ. Thank you, Madam President.

MR. ROMULO. Madam President.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, I am against the sentence that starts with "NO FOREIGN" which is expressed in the negative because that is not only mandatory but prohibitive. We use the sentences "No person shall be deprived of life, liberty, or property"; "no law shall be passed abridging the freedom of the press"; but I do not believe it is proper in this Declaration of Principles to start with a negative and prohibitive provision.

My other point is, if there should be a treaty, according to our Constitution – and I think it is confirmed in our Article on the Legislative or Article on the Executive – that treaty which is signed or entered into by the executive is referred to the Congress, particularly to the Senate for ratification. And if two-thirds or three-fourths vote ratified the treaty, then that is final. So, I do not believe it is necessary, and I think it is even violative of the Constitution, to require, as an indispensable requisite, that that treaty entered into by the President and confirmed or ratified by the Senate should be further submitted for ratification by the people in a plebiscite. That would be contrary not only to the present Constitution but to the Constitution that we are drafting.

The President and Members of the Senate are elected by the people. They are the representatives of the people. And once a treaty has been entered into by the executive and ratified by the Senate, that is in effect a treaty entered into by the two departments of government for the benefit and even in the name of the people. But there is no need for further requirement of a plebiscite; otherwise, we will have several treaties and we may have to call for several plebiscites. That is not only unnecessary but expensive.

Many times we always say that we want the confirmation or ratification of the people. That is well and good. The people are the sovereign source of government authority. But if we say that we are a republican democratic state, the will of the people is also expressed by the two departments of government – the executive and the legislative. And when a treaty is entered into by the executive with the concurrence of the Senate or of the Congress, that should be final. It does not need any further submission to the sovereign people for ratification in another plebiscite.

So I am against the proposal of Commissioner Bernas.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I think that even if the treaty is ratified by the Senate, the Senate cannot speak competently on behalf of more than 55 million Filipinos. I believe, Madam President, that maintenance and existence of foreign military bases in the Philippines is in derogation of the sovereignty of the people. And we stated in the Declaration of Principles that sovereignty resides with the people and all government authority emanates from them. If we maintain foreign military bases in the Philippines, that is a limitation of our sovereignty, and only the Filipino people directly can give consent to that limitation. And so, I strongly endorse the proposal of Commissioner Bernas.

If we state here in the Commission that we do not enjoy the mandate of the people and therefore we should not decide on whether or not to maintain foreign bases in the Philippines, why do we deny to the people themselves the right to determine whether foreign military bases should be maintained in the Philippines?

Thank you, Madam President. *(Applause)*

THE PRESIDENT. May we request our guests in the gallery to please refrain from clapping or from making any outright manifestation.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. I just want to address a question or two to Commissioner Bernas.

This formulation speaks of three things: foreign military bases, troops or facilities. My first question is: If the country does enter into such kind of a treaty, must it cover the three – bases, troops or facilities – or could the treaty entered into cover only one or two?

FR. BERNAS. Definitely, it can cover only one. Whether it covers only one or it covers three, the requirement will be the same.

MR. MAAMBONG. In other words, the Philippine government can enter into a treaty covering not bases but merely troops?

FR. BERNAS. Yes.

MR. MAAMBONG. I cannot find any reason why the government can enter into a treaty covering only troops.

FR. BERNAS. Why not? Probably if we stretch our imagination a little bit more, we will find some. We just want to cover everything.

MR. MAAMBONG. I would like to stretch my imagination but I am just asking the honorable Commissioner in what instance the Philippine government could enter into a treaty with the American government or another government and allow troops to come in without any bases or without any facilities.

FR. BERNAS. By the term "bases," were we thinking of permanent bases?

MR. MAAMBONG. Yes.

FR. BERNAS. But let us suppose that we are in very serious danger. Then the government might say: "Well, we need foreign troops to help ourselves."

MR. MAAMBONG. And so, do we need an advanced treaty to effectuate that situation?

FR. BERNAS. Yes.

MR. MAAMBONG. My second and last point is: If we go by sequence in this formulation, the first thing to do is for the President to enter into a treaty; then that treaty will go to the Senate; then after it has been concurred in by the Senate, it goes to the people.

FR. BERNAS. That is correct.

MR. MAAMBONG. Would it be a referendum or a plebiscite?

FR. BERNAS. It would be a referendum.

MR. MAAMBONG. Would that be the sequence?

FR. BERNAS. Yes.

MR. MAAMBONG. And after that, does it go to the other party?

FR. BERNAS. It goes to the other party. As far as the action of the other party is concerned, they could ratify it even before the referendum. But if our referendum rejects it, then there is no treaty. In other words, when the executive department enters into negotiations with the other contracting nation or contracting state, we would have to say that under our law for this purpose, these are the requirements. So they would have to be prepared to accept that. Hence, even before our people could ratify it, the other party could ratify it ahead, but for as long as our people have not ratified it, it does not bind us. Similarly, our people could ratify it ahead of the United States Senate, for example, but for as long as it is not accepted by the United States Senate, it does not bind us.

MR. MAAMBONG. Of course it goes without saying that as far as the ratification of the other state is concerned, that is entirely their concern under their own laws.

FR. BERNAS. Yes, but we will accept whatever they say. If they say that we have done everything to make it a treaty, then as far as we are concerned, we will accept it as a treaty.

MR. MAAMBONG. Thank you.

FR. BERNAS. Perhaps I will modify my answer to the Gentleman's other question about troops. The example I gave the Gentleman is probably not a correct example because what he might be contemplating is some degree of permanency in the placement of troops here, not a temporary placement. I would not imagine this as applying to temporary help that others may give us.

MR. MAAMBONG. Now that Commissioner Bernas mentioned it, this may be nitpicking a little bit, but could we enter into a treaty wherein we allow facilities to be here without necessarily allowing bases?

FR. BERNAS. I think that is a possibility because, for instance, one can maintain a silo here for nuclear weapons – unless we disallow nuclear arms, of course. But they might want various kinds of facilities which are not necessarily troops, not necessarily bases.

MR. MAAMBONG. Thank you.

I have no further questions.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, this is not a question, but may I ask that when we vote on the amendment, we vote separately on the question of a date, and then the question of the mandatory referendum. I suggest that they be taken separately.

THE PRESIDENT. I beg the Commissioner's pardon?

BISHOP BACANI. I would like to ask that when we vote on the amendment, we vote separately on the question of the date requirement and then the question of the mandatory referendum.

FR. BERNAS. Madam President, I think that is what will naturally follow.

MR. ROMULO. Madam President, may I now introduce my amendment to the Bernas formulation?

THE PRESIDENT. Is that the proposed amendment to Commissioner Bernas' formulation?

MR. ROMULO. Yes, Madam President, and which has been accepted by the committee. The amendment is the introduction of two phrases. My first amendment shall read: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991, NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED IN THE PHILIPPINES EXCEPT UNDER THE TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE." Now comes my second amendment: "AND WHEN CONGRESS SO REQUIRES RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE."

FR. BERNAS. Madam President, may I request that we take this one by one. So the first amendment would be: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991." Then we follow this with: "NO FOREIGN MILITARY BASES."

Is it correct to understand, therefore, that implicit in this is an absolute prohibition for bases, troops and facilities of any other nation than the United States?

MR. ROMULO. I would say, it is stronger; it is explicit.

FR. BERNAS. Did the Gentleman say "NO OTHER"?

MR. ROMULO. No, I said: "NO FOREIGN."

FR. BERNAS. Does the term "NO FOREIGN" apply to all?

MR. ROMULO. To all.

FR. BERNAS. I would have no difficulty, but actually the committee has already accepted my amendment.

MR. ROMULO. Yes, may we have the reaction of the committee?

MR. AZCUNA. The majority view would reject that proposed amendment to the amendment, Madam President.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I heard from Commissioner Romulo the negative prohibitive word "no." In line with my observation just recently given, the original proposal was in the affirmative: "ANY FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED ONLY IN ACCORDANCE WITH A NEW TREATY, . . . AND WHEN CONGRESS SO REQUIRES, RATIFIED BY THE PEOPLE IN A REFERENDUM OR PLEBISCITE."

Will Commissioner Romulo not accept my proposal to change the negative to positive?

MR. ROMULO. Yes, Madam President, I have no objection, since even the original formulation of Commissioner Bernas really reads this way: "ANY TREATY ALLOWING FOREIGN MILITARY BASES."

FR. BERNAS. Madam President, the following really is the amendment which was accepted by the committee: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED." And the reason for this negative statement is precisely that we want a mandatory and prohibitive language. So, since Commissioner Padilla prefers not to have a mandatory and prohibitive language, and the committee, together with me, wants a mandatory, prohibitive language, then we put the matter to a vote.

MR. ROMULO. Madam President, it is our interpretation, if I may speak for Commissioner Padilla as well, that this would be mandatory.

FR. BERNAS. But we feel that the negative expresses the mandatory and prohibitive character more strongly.

THE PRESIDENT. Does the Chair understand that Commissioner Padilla is not agreeable even if the sentence starts with: "FOREIGN MILITARY BASES . . . SHALL NOT BE ALLOWED"?

MR. PADILLA. I am opposed to the word "NO" as a beginning.

THE PRESIDENT. There is no "NO." It starts with the word "FOREIGN."

MR. PADILLA. In that case, instead of "SHALL NOT BE ALLOWED," I propose "SHALL BE ALLOWED ONLY IN ACCORDANCE WITH A TREATY."

MR. OPLE. Madam President, may I express my support for the original formulation, which I think sufficiently conveys the sentiment of the Commission for a mandatory and prohibitive statement on this matter.

Thank you, Madam President.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. May we ask Commissioner Romulo one question?

MR. ROMULO. Yes.

MR. SUAREZ. My question is on the introductory predicate to the main proposal, and I quote: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991." Just a while ago, I cleared up this matter with Commissioner Bernas as to whether or not his proposal would have any retroactive application. Commissioner Bernas answered in the negative because according to him, this proposal is prospective in character. However, with this phrase, we might be giving a constitutional benediction to the legality of the RP-US Bases Agreement which is bound to expire in 1991. Would that not complicate the situation, Madam President?

MR. ROMULO. No, I believe that introductory phrase is necessary only because we are putting it in the Transitory Provisions, and its only purpose is to particularize the foreign bases we are talking about.

MR. SUAREZ. Since Commissioner Bernas has admitted the fact that in any event this will have no retroactive effect, would it still be necessary to provide this introductory phrase with a predicate like "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991"?

MR. ROMULO. Yes, because the point of referral is the U.S. Military Bases Agreement. As I had expressed to Commissioner Bernas, we want to restrict this only to the U.S. military bases problem, and not to any other foreign country.

MR. SUAREZ. The way it is formulated by Commissioner Bernas, does it refer to any and all kinds of foreign military bases?

MR. ROMULO. Yes.

MR. SUAREZ. Since we are not singling out the United States bases, I would feel more comfortable if we just make a blanket statement without any predicate which might lead to a conclusion that we here in the Commission are not giving a semblance of a blessing of legality to the RP-US Bases Agreement, Madam President.

FR. BERNAS. Madam President, perhaps what is making things a little difficult for us is, so far we have left undecided where this provision will be.

MR. ROMULO. Yes.

FR. BERNAS. Although originally, I had suggested that we decide that later, that is, whether this provision will be in the Declaration of Principles or in the Transitory Provisions. For the purpose of a single-minded dicussion of this, perhaps we should put that question out of the way first.

THE PRESIDENT. Which question? Is it whether the provision should be in the Transitory Provisions or in the body?

MR. ROMULO. That is right.

FR. BERNAS. But I would ask that question, Madam President, only with respect to the second sentence.

MR. ROMULO. May I point out to Commissioner Suarez that the original committee report uses the same phrase: "Upon the expiration of the RP-US Bases Agreement in 1991," so, I do not feel that it has the effect that concerns him. But I agree with Commissioner Bernas that we should put the prejudicial question as to whether or not this provision should be in the main body of the Declaration of Principles or in the Transitory Provisions.

FR. BERNAS. I refer to the second sentence, Madam President.

MR. ROMULO. What does the Gentleman mean by the second sentence?

FR. BERNAS. In the first sentence we said: "The State shall pursue an independent foreign policy." That, definitely, should be in the Declaration of Principles.

MR. ROMULO. Yes, I agree.

FR. BERNAS. Madam President, just a question: Where will we put this provision?

THE PRESIDENT. Does the Commissioner mean the general provision that says: "NO FOREIGN MILITARY BASES SHALL BE. . ."?

MR. ROMULO. Yes, Madam President.

FR. BERNAS. That is correct.

THE PRESIDENT. The question is whether or not it should be in the Transitory Provisions or in the body.

FR. BERNAS. And our formulation will depend on where we intend to put it.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. If the body approves the proposal referring to the date 1991, it has to be in the Transitory Provisions. However, if the Bernas amendment is approved, with no mention of 1991, it has to be in the Declaration of Principles.

FR. BERNAS. That is why, Madam President, I was saying that the language we will approve will depend also on where we will put the provision. If we decide that this will be in the Transitory Provisions, then we should put it in transitory language.

MR. ROMULO. Let us put the basic question to a vote. Shall it be in the main body or shall it be in the Transitory Provisions, disregarding for the moment that it is a different formulation? If we want to clarify it, I move that this subject matter be placed in the Transitory Provisions.

THE PRESIDENT. Which subject matter? Please specify that.

MR. ROMULO. The second sentence of Section 3.

THE PRESIDENT. The second sentence of Commissioner Bernas?

MR. ROMULO. Yes.

THE PRESIDENT. Without any change?

MR. ROMULO. No change at all.

FR. BERNAS. We will discuss the changes after.

MR. NATIVIDAD. Madam President.

THE PRESIDENT. Commissioner Natividad is recognized.

MR. NATIVIDAD. Before we vote, I would just like to be clarified on the reason why Commissioner Romulo wants it to be in the Transitory Provisions. Is it because the Gentleman considers military bases to be temporary in nature?

MR. ROMULO. Exactly.

MR. NATIVIDAD. That we do not intend to have these military bases forever?

MR. ROMULO. Exactly.

MR. NATIVIDAD. And we want this to be transitory in nature because if we ever have these military bases in our country, it is with the understanding that it is transitory, temporary and that is why Commissioner Romulo wants it to be in the Transitory Provisions.

MR. ROMULO. The Commissioner is correct.

MR. NATIVIDAD. Thank you, Madam President.

MR. ROMULO. May I now ask for a vote?

MR. SARMIENTO. Madam President, before we vote, may I briefly state my opposition to the motion?

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Madam President, this Representation personally believes that the Bernas formulation is so transcendental and fundamental that it should have a place in the Declaration of Principles and State Policies. It should not be in a transitory or transient provision.

Several years ago, in 1947, Senator Confesor, a Nacionalista Senator, stated that military bases were established by the United States not so much for the benefit of the Philippines as for the benefit of the United States. According to him, this issue was very crucial, so important, which is why Senator Confesor's words were quoted extensively by Senator Recto in many of his speeches.

Madam President, since this issue is so crucial, so important to our lives, and quoting Nolledo: "This affects our national survival and dignity as a people," this should have a place in the Article on the Declaration of Principles. I oppose the motion that it should be transferred to the Transitory Provisions.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. Just a point of clarification also. Is it the understanding that even if the body should vote that this will be contained in the Transitory Provisions, we will have to settle the matter now?

MR. ROMULO. Yes, absolutely.

FR. BERNAS. Is that the understanding?

MR. ROMULO. That is my understanding.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. If that is the understanding, may I move that we take up the merits of the proposal and then decide later to transfer it, if that would be the decision of the body.

MR. ROMULO. Madam President, that is what we have been doing all these days, taking up the merits of this case. I do not see why we should delay that any further.

THE PRESIDENT. Besides, Commissioner Bernas has already submitted his motion that we vote on whether the subject of the U.S. military bases should be in the Transitory Provisions or in the body of the Declaration of Principles.

Are we ready to vote?

MR. ROMULO. Madam President, I think we have to clarify what we are voting on. Earlier, I made a motion that the subject of the U.S. military bases should be placed in the Transitory Provisions. So if the body votes for my motion, we are voting for transferring it to the Transitory Provisions. That is a "yes" vote.

MR. OPLE. Madam President, may I put a question to Commissioner Bernas? Will he entertain a question for clarification?

FR. BERNAS. Very willingly, Madam President.

MR. OPLE. The way Commissioner Bernas' amendment is now formulated, is this in effect granting constitutional authority to future governments of the Republic of the Philippines to enter into treaties for foreign military bases?

FR. BERNAS. Yes, under the terms stated here.

MR. OPLE. Madam President, that is the reason I have decided to vote for the amendment proposed by Commissioner Romulo because I do not want anything in the Constitution, beyond the existing bases agreement, to authorize a future government to host other foreign military bases and that is the reason the proper place for this should be in the Transitory Provisions.

Thank you, Madam President.

FR. BERNAS. If that is the intention, then we might as well say as a general principle: "NO FOREIGN MILITARY TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY." And we take care of the United States in the Transitory Provisions.

MR. OPLE. I can live with that, but I do not know what Commissioner Romulo has to say.

FR. BERNAS. Because if we agree to say: "NO FOREIGN MILITARY TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY," that will be the end of the discussion on this, and we take care of the U.S. bases in the Transitory Provisions.

MR. OPLE. There are two choices, I believe: whether to say this now as a blanket prohibition with a qualification in the Transitory Provisions, or we just keep silent about it; meaning, there is no authority given to any future government to contract with foreign powers for keeping military bases in the Philippines.

FR. BERNAS. May I, therefore, formally move that we make that prohibition explicit, with the understanding that we will deal with the United States military bases separately.

MR. ROMULO. Madam President, I have a pending motion. I think it should be decided. I am against mentioning "foreign bases" in the main provision of the Constitution. I think that belongs to the Transitory Provisions, so that a time will come when we will be done with that issue.

THE PRESIDENT. All right. So are we ready to vote?

MR. GARCIA. Madam President, I think there is no clarity in the issue. I think it is very clear in the proposal made by Commissioner Bernas that in the Declaration of Principles we want to state that no foreign military bases of whatever origin, whatever country will be established in this land.

THE PRESIDENT. Yes, but there is a pending motion submitted by Commissioner Romulo.

MR. GARCIA. Yes, I understand, Madam President. But what I am trying to say is that, it is not clear. It is very obvious that if we try to put in the Declaration of Principles a statement which says that no foreign military bases of whatever origin, whatever country will be in this land, then that is a principle we are stating. And in the Transitory Provisions, there is where we can state our position regarding the present agreement on the bases with the United States. That, I think, is what we are trying to establish. Therefore, the requirements which are stated in the proposal of Commissioner Bernas are part of that Declaration of Principles.

FR. BERNAS. Madam President and Commissioner Romulo, just for purposes of clarifying this, may I modify the motion of Commissioner Romulo saying that we are deciding for now where to treat the U.S. military bases.

MR. ROMULO. All right.

FR. BERNAS. And that Commissioner Romulo's motion is that we treat the U.S. military bases in the Transitory Provisions without prejudice to our treating foreign military bases in general in the Declaration of Principles.

MR. ROMULO. Without prejudice to Commissioner Bernas' submitting that amendment if he so wishes. But let us settle whether the U.S. military bases matter shall be in the main part of the Declaration of Principles or in the Transitory Provisions. My motion is that it be placed in the Transitory Provisions.

MR. PADILLA. Madam President, I am in favor of not placing this matter of military bases under the Article on the Declaration of Principles. With regard to its proper place as a transitory provision, I feel that the proper time to discuss that would be when we are discussing the Transitory Provisions.

I do not want to repeat the sad situation where I found myself when I was trying to restate the phrase "imminent danger thereof" in relation to the suspension of the privilege of *habeas corpus.* While it was admitted that the proper place was the discussion on the executive department, my proposal was not considered because it was claimed that the provision of *habeas corpus* under the Bill of Rights had already been decided.

So that if this motion is approved and it is considered in the Transitory Provisions, then it should be subject of further discussion when we discuss and deliberate on the Transitory Provisions.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 6:12 p.m.

RESUMPTION OF SESSION

At 6:21 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Romulo is recognized.

MR. ROMULO. Madam President, may I propose my amendment to the Bernas amendment: "AFTER THE EXPIRATION OF THE RP-US AGREEMENT IN 1991, FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN THE PHILIPPINE TERRITORY EXCEPT UNDER THE TERMS OF A TREATY DULY CONCURRED IN BY THE SENATE, AND WHEN CONGRESS SO REQUIRES RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE PEOPLE IN A REFERENDUM HELD FOR THAT PURPOSE AND RECOGNIZED AS A TREATY BY THE OTHER CONTRACTING STATE.

VOTING

THE PRESIDENT. As many as are in favor of this formulated amendment of Commissioner Romulo, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 26 votes in favor, 15 against and 2 abstentions; the amendment is approved.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. May I offer an amendment by insertion? I propose to say: "AND WHEN CONGRESS VOTING JOINTLY SO REQUIRES," instead of simply saying "WHEN CONGRESS SO REQUIRES."

MR. ROMULO. Will the Gentleman explain what "VOTING JOINTLY" means?

FR. BERNAS. It means not voting separately. The Congress votes as one body, and not as two separate bodies, as what the Commission provided in the provision relating to martial law.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. We will have a bicameral legislature – a Senate composed of 24 Senators elected at large and a House which may be composed of more than 200 Members. In a bicameral legislature, the universal practice is for the two Houses voting separately. Let us remember that the treaty-ratifying Chamber is the Senate, so that if the Senate should ratify the treaty and Congress may decide by a vote of the two Houses to refer further the ratification by the Senate to the people, I think that in this case the two Chambers should vote separately. If it is otherwise, the 24 Senators will be absorbed and will be a drop in the bucket and will be overwhelmed by numbers from the Lower House.

THE PRESIDENT. Is the Bernas amendment accepted by Commissioner Romulo?

MR. ROMULO. No, I am not accepting the amendment, Madam President, I leave it to the body.

FR. BERNAS. Madam President, may I just say a few words?

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. I quite agree that the normal process in a bicameral body is for the two Houses to vote separately, but we have, as we have done in the body of the Constitution relevant to the executive department, made exceptions to that in recognition of the transcendence of certain issues. We did that for the extension of martial law and for the confirmation or rejection of martial law. This matter of foreign military bases is of similar transcendent importance and so we are quite aware that the amendment being proposed is an exception to the general rule. And its purpose is to give a broader base for the decision on whether the people should be allowed to participate or not.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. It is true that under the Article on the Executive, we did provide for joint voting but in the circumstances when Congress had to concur in, revoke or extend a proclamation of martial law, the very nature of the circumstances called for urgency in action which also likewise called for immediacy in decision. In this particular case, with respect to the submission of the agreement or other treaty to a referendum, the element of urgency is not involved. That is where the difference lies. Furthermore, it should be noted here that there is a prior ratification by the Senate. The analogy or the rationale for that in the matter of martial law does not apply in the present situation.

MR. RAMA. Madam President, I agree with Commissioner Regalado that there is no parallelism between the requirement in the Article on the Executive and the present provision. As a matter of fact if we go by constitutional law, it is only the Senate that should have been authorized to ratify a treaty; so the parallelism is not there.

May I ask for a vote now, Madam President?

THE PRESIDENT. Is it on the amendment of Commissioner Bernas?

FR. BERNAS. The amendment simply inserts "CONGRESS VOTING JOINTLY."

MR. AZCUNA. Before we vote, Madam President, a majority of the committee accept the proposed amendment of Commissioner Bernas, so let us throw it to a vote.

VOTING

THE PRESIDENT. As many as are in favor of Commissioner Bernas' amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 16 votes in favor, 24 against and 1 abstention; the amendment is lost.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I be allowed to introduce an amendment?

THE PRESIDENT. To the approved text?

MR. DAVIDE. Yes, Madam President.

THE PRESIDENT. Please proceed.

MR. DAVIDE. The amendment consists in the substitution of the word "Congress" with the words "THE HOUSE OF REPRESENTATIVES." The clause will therefore read: "AND WHEN THE HOUSE OF REP-

RESENTATIVES SO REQUIRES RATIFIED BY THE PEOPLE IN A REFERENDUM OR PLEBISICTE CALLED FOR THAT PURPOSE."

THE PRESIDENT. What does Commissioner Romulo say?

MR. ROMULO. Since we did not accept the amendment of voting jointly, I regret to say we cannot accept that amendment either.

MR. DAVIDE. May I be allowed to explain, Madam President?

THE PRESIDENT. Please proceed.

MR. DAVIDE. The reason for this is not the same as the reason for the joint session and a joint voting. The idea here is that since the Senate is the body to ratify, we should allow the possibility of the people participating in a very crucial treaty affecting the national integrity and the national territory. The proposal seeks for an act of the Lower House or the House of Representatives, because the House of Representatives is composed of people more directly attached to the governed. They are in direct contact with the governed. They are elected as proposed by districts and, therefore, they reflect more the genuine sentiments of the people. And in this particular respect, the Senate, while it may ratify the treaty, may also be checked by the Lower House. We have two Houses to provide the possibility of an internal check. This check within the Congress was precisely the main reason why there was a proposal to adopt the bicameral system. This is a matter which is so significant and so important as to affect the lives of every citizen of the country, and the Senators being elected merely at large, campaigning in a very impersonal manner, may not be able to telegraph really the genuine sentiments of the people.

And so my proposal really is that we must leave it to the Lower House to determine if, for the final effectivity and validity of a treaty regarding the hosting of foreign bases, the matter may be addressed directly to the people in a plebiscite. I hope that in this particular respect, we can somehow allow the direct participation of the people.

VOTING

THE PRESIDENT. Let us submit it to a vote.

The Davide amendment proposes to say: "AND WHEN THE HOUSE OF REPRESENTATIVES SO REQUIRES," instead of "Congress."

As many as are in favor of the Davide amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 15 votes in favor and 27 against; the amendment is lost.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. My understanding is that what we have just approved is a provision for the Transitory Provisions. Am I correct?

THE PRESIDENT. That is right.

FR. BERNAS. So for the main body, may I propose an amendment? I think this expresses what is already admitted or accepted by everybody, and my only desire is to make it explicit that in the Transitory Provisions we treat the United States separately. I would like to put in a general principle in the body itself which reads: "FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL NOT BE ALLOWED IN PHILIPPINE TERRITORY." This is with the understanding that what applies to the United States is what we have just approved.

That will follow the statement: "The State shall pursue an independent foreign policy."

THE PRESIDENT. Yes.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized

MR. OPLE. I had earlier stood up to call attention to the danger of giving constitutional authority to future governments to contract with other states the hosting of foreign bases on Philippine soil as a general principle. I said I could live with a statement of the nature that Commissioner Bernas had introduced in a reversal of the previous statement granting constitutional authority to future governments to host foreign military bases; I could live with that. However, I think I would feel more comfortable if we delete entirely from the Declaration of Principles any reference to foreign military bases. There is no authority at all to future governments to contract with foreign states the hosting of military bases here.

Thank you.

FR. BERNAS. Madam President, I believe we have discussed this enough and I am willing to submit it to a vote. As I said, this is a principle whereby we are just explicating what is accepted by everyone – that no foreign military bases, troops or facilities shall be allowed in the Philippines and what we have provided in the Transitory Provisions with respect to the United States is a clear exception.

So, I request a vote, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

NOMINAL VOTING

MR. SARMIENTO. Madam President, may I ask for nominal voting on the Bernas amendment?

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will call the roll.

FIRST ROLL CALL

THE SECRETARY-GENERAL, *reading:*

Abubakar		Natividad	No
Alonto	No	Nieva	
Aquino	Yes	Nolledo	Yes
Azcuna	Yes	Ople	
Bacani		Padilla	
Bengzon	No	Quesada	Yes
Bennagen	Yes	Rama	
Bernas	Yes	Regalado	
Rosario Braid	Yes	Reyes de los	No
Calderon	No	Rigos	No
Castro de	No	Rodrigo	No
Colayco		Romulo	No
Concepcion	No	Rosales	No
Davide	Yes	Sarmiento	Yes
Foz		Suarez	Yes
Garcia	Yes	Sumulong	
Gascon	Yes	Tadeo	
Guingona	No	Tan	Yes
Jamir		Tingson	No
Laurel		Treñas	No
Lerum		Uka	No
Maambong		Villacorta	Yes
Monsod		Villegas	No

Is Madam President voting?

THE PRESIDENT. I would like to cast my vote. I am voting yes. *(Applause)*

SECOND ROLL CALL

THE PRESIDENT. The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Yes	Laurel	
Bacani	No	Lerum	No
Colayco	No	Maambong	
Foz	Yes	Monsod	No
Jamir	No	Nieva	No
Ople	No	Regalado	No
Padilla	No	Sumulong	No
Rama	No	Tadeo	

THE PRESIDENT. The results show 17 votes in favor of the Bernas amendment, 27 against and no abstention; the amendment is lost.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Madam President, I am still disturbed by the inclusion of the predicate "After the expiration of the RP-US Agreement in 1991" because we may be construed as putting a stamp of legality and validity to the RP-US Military Bases Agreement. So may I move formally for the deletion of this phrase, irrespective of the fact whether this particular provision would be transferred to the Transitory Provisions or not.

THE PRESIDENT. I think the decision here was that the provision shall be in the Transitory Provisions. That was how we voted, was it not?

MR. SUAREZ. Yes, but even if it is already in the Transitory Provisions, may I still formally move? Madam President, as I said, we may be accused or charged with having put a stamp of approval to the legality of the RP-US Military Bases Agreement.

MR. JAMIR. Madam President.

THE PRESIDENT. Commissioner Jamir is recognized.

MR. JAMIR. I believe that that is in the nature of a reconsideration, and I wonder if Commissioner Suarez voted with the majority.

MR. SUAREZ. No, Madam President, honestly I did not vote with the majority, but if it is to be construed in the nature of a motion for reconsideration, I beg to differ from that observation, with due respect to my distinguished colleague, because as we agreed upon, the rule of the game is that we will be free to introduce such amendments as may be favorably or unfavorably acted upon and considered by the body. So I invoke that principle in submitting this new proposal because I really cannot rest until this matter is finally resolved.

Thank you.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. This is a parliamentary inquiry.

The report of the Committee on Amendments and Transitory Provisions has not been taken up by the Commission. In other words, we are not yet in the period of sponsorship on the report of the committee. Would the vote on the Romulo amendment be considered merely as a recommendation to the Committee on Amendments and Transitory Provisions since the main report of the committee has not yet been taken up by the body?

THE PRESIDENT. What does Commissioner Romulo say?

MR. ROMULO. Firstly, Madam President, I am only following the committee report of the Committee on Preamble, National Territory, and Declaration of Principles, which on page 5 has a provision for inclusion in the Transitory Provisions. Secondly, I think the Commission as a whole would transcend a committee, and so we decide as we have decided that this would go into the Transitory Provisions. I do not think that there is any substantial prohibition against that.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, in the past when we voted on matters that would be transposed to the Transitory Provisions, we just voted on the concepts and on the ideas. But today on this particular matter that we have voted upon, we did not only vote on the concepts; we also voted on the text. Thus, when the body voted on the text of that particular provision that remains, that should be taken up and shall form part of the report on the Transitory Provisions. That was the way I looked at it when I voted for this.

MR. DAVIDE. Madam President, I ask that question because the proposal of the committee for a provision in the Transitory Provisions actually partakes merely of a recommendation that it should be in the Transitory Provisions. And then, when we take up the report of the Committee on Amendments and Transitory Provisions, that should be taken into account in the totality of the discussion of the report of the said committee.

MR. BENGZON. Madam President, just one word in reply to Commissioner Davide. I think it will be recalled that this Commission recessed precisely in order that the text of the amendments of Commissioners Romulo and Bernas could be harmonized. And when this Commission went back into session, the text had been finished and had been harmonized. There were only two or three areas that could not be agreed upon which were submitted to the body. Thus, what was really voted upon was not only the idea or the concept but also the text of the provision itself. So as approved by the body, it should go *in toto* to the report of the Committee on Amendments and Transitory Provisions.

THE PRESIDENT. The Chair concurs with the manifestation of Commissioner Bengzon that what has been approved is the text as is, and that this particular text shall be placed in the Transitory Provisions.

MR. FOZ. Madam President.

THE PRESIDENT. Commissioner Foz is recognized.

MR. FOZ. I would like to ask in connection with the Commission's rejection of the amendment of Father Bernas. Just what is the meaning of our action in rejecting the amendment of Father Bernas? The amendment, if I recall, states that: "NO FOREIGN MILITARY BASES, TROOPS OR FACILITIES SHALL BE ALLOWED IN PHILIPPINE TERRITORY."

By so rejecting or disapproving the Bernas amendment, are we saying, Madam President, that we are for maintaining military bases in this country now and forever and ever?

THE PRESIDENT. Will Commissioner Romulo or Ople give an answer?

MR. ROMULO. Gladly, Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. On the contrary, we are saying exactly the opposite. What is provided in the Transitory Provisions is that no other foreign military bases, troops or what-have-you will be allowed in our territory.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, I think what we did, having in mind the sequence of the Bernas amendment, was merely to remove any constitutional authority for future governments to contract with foreign states in hosting military bases. So, I confirm, for my part, the statement of Commissioner Romulo on this subject.

Thank you.

MR. FOZ. But, Madam President, that could be true had we approved the amendment. But since we rejected that amendment, then the implication is that this Commission has taken a position that we cannot survive without military bases in this country, that this country cannot survive without military bases.

THE PRESIDENT. But what about what has been approved, that after the expiration of the RP-US Agreement in 1991, foreign military bases shall not be allowed in the Philippines, except . . .?

MR. FOZ. But the understanding was that these Transitory Provisions apply only to the RP-US Military Bases Agreement and will not govern as a permanent provision in the main body of the Constitution.

THE PRESIDENT. Will Commissioner Romulo clarify this for everybody?

MR. ROMULO. Madam President, I made it very clear that this provision applies firstly as a temporary provision for the U.S. military bases and, secondly, to any other foreign military bases in our territory. I made that very clear to Commissioner Bernas.

MR. FOZ. I cannot see the point, Madam President. If we are going to provide something in the Transitory Provisions, why is the Commission reluctant to provide anything at all in the body of the main Constitution?

MR. ROMULO. Is the Gentleman going to suggest a motion therefor? We have debated and voted on this matter.

THE PRESIDENT. Commissioner Foz is just asking clarification on the rationale of the vote from those who voted against. But the Chair believes that Commissioners Ople and Romulo have already clarified that.

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I think the confusion is this. We are saying that except for the provision in the Transitory Provisions on the U.S. bases, there shall be no more foreign military bases in Philippine territory. And yet we voted down the Bernas amendment which precisely states that.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Parliamentary inquiry, Madam President.

Considering the ruling of the Chair that the text of this particular proposal submitted by Commissioner Romulo had already been voted upon and would, therefore, be transferred to the Transitory Provisions, when the time comes for the discussion of this provision as part of the Transitory Provisions, would any one of us be precluded from submitting any appropriate amendments thereto? As in my case, I submitted a formal motion for the deletion of the introductory phrase to the provision. Would I be precluded later on, at the appropriate time, Madam President?

THE PRESIDENT. May we have the view of Commissioner Romulo?

MR. ROMULO. I think so, Madam President. Insofar as the ruling of the Chair is concerned, after the manifestation of Commissioner Bengzon, I believe that we have settled this matter.

MR. SUAREZ. Madam President, I happen to be the chairman of the Committee on Amendments and Transitory Provisions and quite a number of provisions have been referred to us, provisions which have been approved in the respective committees and also on the floor. Is it my understanding that insofar as the Committee on Amendments and Transitory Provisions is concerned with reference to these referred provisions, we will do it only in a mechanical character, without opportunity or right on the part of the Commissioners to espouse appropriate amendments?

MR. BENGZON. May I be privileged to answer, Madam President?

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, I precisely made that distinction earlier when I stood up, because as far as I can recall, those other matters which were referred to the Committee on Amendments and Transitory Provisions were only approvals in concepts. No text was approved by the Commission insofar as those matters are concerned, but only the idea or the concepts. The body decided that these concepts are properly to be treated in the Transitory Provisions. Therefore, when the time comes for the report on the Transitory Provisions to be presented in plenary session, then those concepts could still be crafted by this Commission, because the Commission did not approve the text of those concepts, unlike in this particular case which we did tonight.

MR. OPLE. Madam President, will the chairman of the Steering Committee yield to a question?

It is, of course, presumed under the Rules that this Commission can command any of the committees. Is the Committee on Amendments and Transitory Provisions, of which I am a member, being commanded by this Commission just to receive this transitory provision and act simply as a mechanical conduit for bringing it back to the floor? And, subsequent to that, may I ask whether this is equivalent to discharging the Committee on Amendments and Transitory Provisions?

MR. BENGZON. Firstly, the Commission decided on the text of this particular concept and, therefore, the

Commission has approved not only the concept but also the text and the wording, and decided that it should be included in the provision on Transitory Provisions. Insofar as this particular matter is concerned, the whole thing is foreclosed.

Secondly, I do not think and please do not consider it as a discharge of the committee's responsibility. It is just this particular text that was approved, unlike the other concepts that we have approved which we just submitted to the Committee on Amendments and Transitory Provisions and it was up to them to craft the words, after which the matter should be brought back to the floor for discussion.

MR. OPLE. So the committee is not being discharged of its task?

MR. BENGZON. The committee certainly is not being discharged of its task even insofar as this provision is concerned. It just happens that this Commission gave its final imprimatur, not only insofar as the concept is concerned but also the text.

MR. OPLE. And I presume that this action of the Commission is a precedent that will apply to other committees in the future?

MR. BENGZON. If it is clear, as it has been clear, that that is the decision of the Commission which is the highest body of this Assembly.

MR. OPLE. I thank the Gentleman for his interpretation, but I did have reservations about the right of this Commission to override a committee without prior notice and without prior consultations. I suppose as a member of the committee, I accept the superior authority of the Commission, but I hope that in the future, prior consultations could be effected so that the integrity of the committees under the Rules will be properly asafeguarded.

Thank you, Madam President.

MR. BENGZON. Thank you.

MR. SUAREZ. Madam President, for purposes of record, we would like to take strong exceptions to the statements or the observations made by the chairman of the Steering Committee and we would like to make of record further our reservation of the right to ventilate this matter anew at the proper time when this proposal is submitted for consideration in the Committee on Amendments and Transitory Provisions.

Thank you, Madam President.

MR. NOLLEDO. Madam President, may I be given only two mintues?

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I wholeheartedly support the contention of Commissioner Suarez in view of the observations of Commissioner Foz, because I think the provision is not clear. I believe that the second part of the provision of the Romulo amendment is tailored in order to lay down the terms and conditions under which the RP-US Military Bases Agreement may be extended, aside from the fact that the provision was decided by us to be included in the Transitory Provisions, and by the very term of transitory provision, it is only temporary in nature. In view of the serious observation of Commissioner Foz, I think Commissioner Suarez is fully justified in ventilating anew this issue in the committee level.

MR. RAMA. Madam President, I think we have ignored the nature of the Committee on Amendments and Transitory Provisions. As a matter of fact, it is quite different from the rest of the committees. The committee should take care of contingencies that arise from the discussion on the other articles. That is the business of this particular committee. This is a contigency that arose from some provisions under the Article on the Declaration of Principles that have to be transferred to the Transitory Provisions. By its very nature, the committee should accept those contingencies.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. I would like to show an example of a decision by the body of referring a resolution to another committee.

I had proposed Resolution No. 121 on graft and corruption. It was referred on First Reading to the Committee on Accountability of Public Officers. When we discussed the provisions of the Article on the Accountability of Public Officers, I was informed by the Committee on the Accountability of Public Officers that it should be referred to the Committee on Preamble, National Territory, and Declaration of Principles. The Commission did not discuss the merits of my resolution but just referred it to the Committee on Declaration of Principles. My said resolution will now be the subject of discussion by the whole Commission.

In this particular case, Madam President, we took care of all the merits of the resolution and the results of the votes showed 26 in favor, 15 against and 2 abstentions. We even tried to propose that Congress shall vote jointly, but this was lost by a vote of 16 in favor and 24 against. Again, Commissioner Davide came out with the proposal to substitute the word "Congress" with "HOUSE OF REPRESENTATIVES." The results of our votes showed 15 in favor and 27 against. There is no more discretion on the part of the Committee on Amendments and Transitory Provisions, consisting only of about 11 members, as against those 26 who voted in its favor. To my mind, Madam President, with the Commission having voted on the merits of the whole provision and having referred this to the Committee on Amendments and Transitory Provisions, I sincerely believe that there is nothing more that we can take up in the committee except to include the same in its report.

THE PRESIDENT. This is the ruling of the Chair.

There was a parliamentary inquiry made by Commissioner Suarez but as the Chair already stated, what was submitted to a vote was the text and the place where that particular text is to be placed. So, I believe that the matter is settled.

As to the question whether any amendment to the text will be in order or not when the report of the Committee on Amendments and Transitory Provisions is submitted, that will be resolved when the time comes. Therefore, the Chair will not make any commitment on that but will reserve its resolution on that particular point.

MR. ROMULO. Madam President, just an observation on the basis of what Commissioner Nolledo said. This transitory provision is precisely designed to protect us and not to give the executive department unconditional discretion. Precisely, we want it to be a new treaty. It cannot be an extension of the old one. Secondly, the treaty must be ratified by the Senate and if Congress so decides, ratified by the people and finally, it must be recognized as a treaty by the other party.

MR. NOLLEDO. Madam President, may I ask a question.

THE PRESIDENT. Please proceed.

MR. NOLLEDO. Would Commissioner Romulo agree with me that the second part of the provision, the conditions he is talking about, necessarily refers to the present RP-US Military Bases Agreement in view of the introductory part of that provision?

MR. ROMULO. Certainly, that is our report.

MR. NOLLEDO. Thank you.

MR. ROMULO. Madam President, it has been a long day. I have a minor amendment which was originally proposed but I think I will delay that for tomorrow.

THE PRESIDENT. Is the Chairman through with Section 3?

MR. ROMULO. Madam President, my proposal is on the second sentence of Section 3. Since they are urging me to go ahead, let me propose it.

MR. FOZ. Madam President, are we foreclosing now any further amendment to Section 3?

MR. ROMULO. No, I am only proposing. Please allow me to finish my amendment.

MR. FOZ. I am sorry.

THE PRESIDENT. Commissioner Romulo will please proceed.

MR. ROMULO. "WHEN ENTERING INTO ANY TREATY THE PARAMOUNT CONSIDERATIONS SHALL BE NATIONAL SOVEREIGNTY, NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION." That will form the second sentence of Section 3, the first sentence being: "The State shall pursue an independent foreign policy."

THE PRESIDENT. That has been approved.

MR. ROMULO. Yes, Madam President, so what I am proposing now is a second sentence which shall read: "WHEN ENTERING INTO ANY TREATY THE PARAMOUNT CONSIDERATIONS SHALL BE NATIONAL SOVEREIGNTY, NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION."

THE PRESIDENT. What does the committee say?

MR. AZCUNA. May we ask from the proponent whether he has in mind treaties granting foreign states military bases since we rejected earlier a general provision prohibiting them?

MR. ROMULO. It would exclude such a treaty.

MR. AZCUNA. So under Commissioner Romulo's proposal it contemplates only other treaties.

MR. ROMULO. Yes.

MR. AZCUNA. Because treaties granting military bases to foreign states will not be allowed.

MR. ROMULO. Yes, that is right.

MR. AZCUNA. Under the understanding of the Gentleman's previous amendment.

MR. ROMULO. That is correct.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Has the committee accepted the proposal?

THE PRESIDENT. Not yet.

MR. AZCUNA. Could I just inquire from our members? May we proceed first, Madam President, before we decide?

MR. BENNAGEN. Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. I would like to ask the proponent one question. Would the treaty here include agreements that have to do with the exploitation of natural resources?

MR. ROMULO. I do not think that that is a subject of a treaty. Is Commissioner Bennagen talking of service contracts or the law of the sea?

MR. BENNAGEN. I do not know.

MR. ROMULO. No, I do not think that that would be subject of the treaty.

MR. BENNAGEN. We are saying that at some point, there may be some necessity to go into this, not just in terms of executive agreements for service contracts.

Thank you, Madam President.

MR. AZCUNA. The committee accepts, Madam President.

THE PRESIDENT. The committee accepts.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I wish that this amendment would be accepted by the main proponent. After "sovereignty," we only add the following: "AND TERRITORIAL INTEGRITY."

THE PRESIDENT. Is that accepted?

MR. ROMULO. The committee has accepted and I certainly have no objection.

MR. AZCUNA. The committee has no objection and we also accept that, Madam President.

THE PRESIDENT. Any other comment? Is there any objection to the second sentence which has been read by Commissioner Romulo and amended by Commissioner Davide? *(Silence)* The Chair hears none; the amendment is approved.

ADJOURNMENT OF SESSION

MR. RAMA. Madam President, I move that we adjourn until tomorrow at nine-thirty in the morning.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. The committee would like to suggest to the Floor Leader and to the leadership that we take up first Section 9 tomorrow, if possible.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The session is adjourned until tomorrow at nine-thirty in the morning.

It was 7:12 p.m.

R.C.C. NO. 87

Friday, September 19, 1986

OPENING OF SESSION

At 9:59 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Jaime S. L. Tadeo.

Everybody remained standing for the Prayer.

PRAYER

MR. TADEO. Diyos ng kasaysayan, Diyos ng mga
dukha at inaapi,
Tunghayan Mo kami sa araw na ito.
Nagsusumikap magbalangkas ng isang Saligang-Batas
Na dapat kumatawan sa adhikain ng sambayanang
Pilipino.

Tinig ng bayan ay tinig Mo, laluna't tinig ng
nakararaming gutom at uhaw para sa katarungan
at kalayaan.
Sana'y dinggin naman ang sigaw ng bayan,
Sa halip na pakinggan ang mga bulong ng mga
dayuha't mapang-api.

Ikaw, Panginoon,
At ang bayan ang dapat naming tanging
Kilalaning Panginoon sa aming ginagawa.
Sana'y maging tapat kami sa bayan sa halip na maging
sunud-sunuran sa ibang panginoon.

Ikaw ay nagsasabing gagamitin ang karunungan ng
mga mangmang upang mapahiya ang mayayabang
na pantas.
Hinihiling namin sa Iyo,
Sa darating na araw ng paghatol at pag-uusig.
Punuan Mo ang aming pagkukulang
At patawarin ang aming pagtalikod sa Iyo at sa bayan.
Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present*	Nieva	Present*
Aquino	Present*	Nolledo	Present
Azcuna	Present*	Ople	Present*
Bacani	Present	Padilla	Present
Bengzon	Present	Quesada	Present*
Bennagen	Present	Rama	Present
Bernas	Present*	Regalado	Present
Rosario Braid	Present	Reyes de los	Present
Calderon	Present	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present*	Rosales	Present*
Davide	Present	Sarmiento	Present*
Foz	Present*	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present	Tadeo	Present
Guingona	Present	Tan	Present
Jamir	Present	Tingson	Present
Laurel	Absent	Treñas	Present*
Lerum	Present	Uka	Present
Maambong	Present*	Villacorta	Present*
Monsod	Present	Villegas	Present

The President is present.

The roll call shows 29 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of yesterday's session.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Letter from H. George Feliciano and Lydia Feliciano and Tito dela Cruz and Delia dela Cruz, convenor couples of the Citizens Alliance For The Constitutional Protection Of The Unborn, submitting a compilation of position papers and summary of arguments favoring the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception.

(Communication No. 928 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the National Council of Churches in the Philippines, signed by its General Secretary, La Verne D. Mercado, objecting strongly to the inclusion in the Constitution of a provision that would mandatorily allow the teaching of religion in the public elementary and high schools within regular class hours.

(Communication No. 929 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Ms. Rosario A. Magnaye of Looc, Romblon, suggesting to the Constitutional Commission the development of Pilipino and English as the two national languages of the Philippines.

(Communication No. 930 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Mr. Frank Y. Arcellana, President, N.O. Nukes, Phil. Social Science Center Building, Mariano Marcos Avenue, Quezon City, and fifty thousand seven hundred eleven (50,711) other signatories with their respective addresses, calling for nuclear-free provisions in the Constitution of the Republic of the Philippines.

(Communication No. 931 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we take up this morning the Article on the Declaration of Principles. We are still in the period of amendments.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on the Declaration of Principles will please occupy the front table.

MR. RAMA. Madam President, I ask that Commissioner Rigos be recognized.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, Section 9 on page 3 of the committee report, lines 1 to 3, states:

> The State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

There have been some lengthy debates on this subject and we need not repeat the arguments today. However, I propose to delete the words "from the moment of conception" and add the word "CHILD" after "unborn" so that the sentence will read: "The State shall equally protect the life of the mother and the life of the unborn CHILD."

THE PRESIDENT. Is the committee ready to respond?

MR. TINGSON. Madam President, the member of our committee who is the chief articulator of this particular section is Commissioner Villegas. May I ask that he be recognized to answer questions along this particular section.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. Madam President, the position of the committee is that the phrase "from the moment of conception" is completely indispensable in order to protect the life of the unborn from its very beginning. We are sorry to say that we cannot accept the amendment.

REV. RIGOS. Madam President, as already articulated in this hall, a good number of the Commissioners are very unhappy about the words "from the moment of conception." Anyway, we believe that giving protection to the life of the unborn is sufficient enough to be in the Constitution. In order not to prolong the discussion on the subject, I request that we vote on this resolution.

MR. NOLLEDO. Madam President, may I interpellate Commissioner Rigos?

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

Does the Commissioner agree with me that from the time of conception, there is already life?

REV. RIGOS. Even before the time of conception there is life.

MR. NOLLEDO. I think the Commissioner will qualify his answer if I ask the second question. Is the life human?

REV. RIGOS. It is human.

MR. NOLLEDO. Not before conception, because the sperm has life by itself. The egg has life also and the moment they unite, there is already life.

REV. RIGOS. Yes.

MR. NOLLEDO. Then that life is human?

REV. RIGOS. Yes.

MR. NOLLEDO. Does it have personality?

REV. RIGOS. That is the debatable point. It depends now on one's authority. There are those who wait until two months before they speak of the personality of the child, and we do not have the time to debate on that in this Commission.

MR. NOLLEDO. As a lawyer, I would like to tell the Commissioner that there is a presumptive personality because under Articles 40 and 41 of the Civil Code of the Philippines, for all purposes favorable to the fetus, it is considered born, and, therefore, one can make a donation to him or to her, and it can also succeed. Does the Commissioner agree with me?

REV. RIGOS. Yes, that is the debatable portion of the article here.

MR. NOLLEDO. If from the time of conception it has life and it is human, and if there is any move to put an end to that life, would we consider that murder aside from being called abortion because the fetus is helpless?

REV. RIGOS. Even under the Penal Code, that would be murder, intentional or unintentional.

MR. NOLLEDO. In the Penal Code, it is called abortion, but from the layman's point of view, it is murder. Would the Commissioner agree with me?

REV. RIGOS. I agree with the Commissioner.

MR. NOLLEDO. Therefore, would the Commissioner agree with me that the words "from the time of conception" should not be deleted in order to protect the human being inside the womb of the mother?

REV. RIGOS. If we just say "the life of the unborn," it is up to Congress to define whether it should begin from the time of conception or two weeks or eight weeks after that. But here we are trying to be very specific by saying "from the moment of conception."

MR. NOLLEDO. Shall we deny ourselves the opportunity to protect life even at that stage because if we will leave it to Congress, then Congress might adopt some legal aspects derived from the ruling of the Supreme Court that the life becomes viable only after, say, four months? Why do we not decide in this Commission now?

REV. RIGOS. I would not preempt the wisdom of the Congress composed of the Representatives elected by the people.

MR. NOLLEDO. Therefore, if we leave it to Congress, we consider also the possibility that Congress may reinstate the words "from the time of conception."

REV. RIGOS. Congress probably would listen to the sentiments of their constituents.

MR. NOLLEDO. Thank you.

Madam President, on behalf of the committee, considering that the amendment covers a transcendental question and although we have a quorum, can we not suspend the voting on this question until after the other Members of the Commission shall have come? This is with due respect to Commissioner Rigos, if he will be kind enough to agree with the suspension of the voting.

REV. RIGOS. Madam President, I agree with the suggestion of Commissioner Nolledo.

MR. NOLLEDO. Thank you.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I be clarified on certain points made by Commissioner Rigos. Did I get him correctly as having said that life begins even before the moment of conception?

REV. RIGOS. Yes, I said that.

MR. DAVIDE. So what really is the Commissioner's contemplation on the commencement or the beginning of human life?

REV. RIGOS. It is too specific. It does not give way to the opinions of other authorities.

MR. DAVIDE. But the Commissioner believes that at the moment of conception there is human life.

REV. RIGOS. I will leave that to Congress to define, but in Congress they have more time to consider other views.

MR. DAVIDE. The Commissioner said that life begins even before the first moment of conception and now he is saying that he is not so sure whether at the first moment of conception there is life.

REV. RIGOS. I said that there is life even before conception.

MR. DAVIDE. That is exactly the point. If the Commissioner believes that life begins even before the first moment of conception, why would he propose that we delete the words "moment of conception"?

REV. RIGOS. The view that there is life even before conception is one of the various views, and there is life at the moment of conception; other authorities would wait until two weeks; others would wait until eight weeks.

MR. DAVIDE. May we be favored with an authority regarding the existence of life even before the first moment of conception?

REV. RIGOS. Dr. Gloria Enriquez, head of the Zoology Department of the University of the Philippines and whom I consulted on this matter, told me so when I interviewed her during my research on this subject.

MR. DAVIDE. But anytime before the first moment of conception, there is no fertilization yet, there is no meeting of the sperm and the ovum.

REV. RIGOS. But the sperm and the egg are supposed to be alive. That is what Dr. Enriquez believes by life even before conception.

MR. DAVIDE. We are talking about fertilization. We cannot speak of life independently of the ovum and independently of the sperm.

REV. RIGOS. We are talking of the unborn here.

MR. DAVIDE. Precisely. So, insofar as the unborn is concerned, life begins at the first moment of conception. Therefore, there is no need to delete. There is no need to leave it to Congress because that is a matter settled in medicine.

REV. RIGOS. No.

MR. DAVIDE. That life begins at the moment of conception?

REV. RIGOS. As Commissioner Quesada related here a few days ago, there are cases in the life of the mother that should be considered in the question of abortion.

MR. DAVIDE. Those are totally different. We are talking about the right of the mother, not the right of the unborn child from the first moment of conception. So, if the Commissioner's proposal is precisely to provide possible protection to the mother, that is an entirely different matter. The section provides for protection to the life of the mother and the life of the unborn from the moment of conception.

REV. RIGOS. Yes, we think that the word "unborn" is sufficient for the purpose of writing a Constitution, without specifying "from the moment of conception."

MR. DAVIDE. I would not subscribe to that particular view because according to the Commissioner's own admission, he would leave it to Congress to define when life begins. So, Congress can define life to begin from six months after fertilization; and that would really be very, very dangerous. It is now determined by science that life begins from the moment of conception. There can be no doubt about it. So, we should not give any doubt to Congress, too.

Thank you, Madam President. *(Applause)*

MR. VILLEGAS. Madam President, since there was the suggestion that we postpone the voting on this move to delete, can we take up other amendments that have been suggested on Section 9?

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla seeks to be recognized, I suppose, on this point.

MR. PADILLA. On the unborn, Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. I would like to ask Commissioner Rigos a question.

After the word "unborn," instead of deleting the phrase "from the moment of conception," will the Commissioner agree if we delete the words "the moment of," so it will read: ". . . protect the life of the mother and the life of the unborn from conception"? On the question of what is the precise moment of conception or days before or after, maybe we could keep the committee report by deleting the words "the moment of" and just say "the life of the unborn from conception."

REV. RIGOS. Commissioner Aquino, my adviser on this subject, has just arrived; I have to consult her on whether or not we can accept that.

MR. PADILLA. I wonder whether Commissioners Villegas and Bacani would consider my suggestion, although there is a need to delete "the moment of," that we say: "the life of the unborn from conception."

MR. VILLEGAS. We have discussed this already, and we will accept that amendment.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. According to the records I have here, Commissioner Bernas likewise presented an amendment on Section 9 which is also to delete the phrase "from the moment of conception." We would like to have a clarification from Commissioner Bernas.

FR. BERNAS. The amendment I had is to substitute the phrase "from the moment of conception" with "FROM ITS BEGINNING."

MR. RAMA. I see.

FR. BERNAS. That is from the language of God and human's best. But I would accept also the Padilla amendment.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I would reiterate the motion of Commissioner Rigos for the deletion of the phrase "from the moment of conception," meaning, the wording should be "the life of the unborn." There is enough law and jurisprudence to protect a fetus. In fact, even in Articles 40 and 41 of the Civil Code, a fetus is considered born for all purposes favorable to it, subject to the conditions in Article 41. I would like to address this problem with objectivity and prudence and I sincerely hope that we do not exploit our imagined fears on the possibility of a statutory fiat for abortion. The issue of abortion is at best diversionary. Culturally, we are not predisposed to legalizing abortion such that the imagined fear is, I would say, off-marked.

MR. VILLEGAS. Let me just summarize very briefly the arguments why we have to say "from conception." I think there are enough Commissioners here, therefore, we can already vote, Madam President.

Precisely, we are basing the argument on pure objectivity because natural scientists who are the most objective in studying positive sciences have come to the conclusion that life begins at conception. Human life begins at conception. I quoted yesterday the authoritative findings of this conference in Washington on abortion where they decided – and the ratio was 19:1 – that human life begins at conception. This included the five percent who remained in doubt. This is where we should use the moral principle already articulated by Bishop Bacani. When there is doubt even by a very small percentage, the moral principle is "Do not kill," because the awesome risk of taking the life of a human being is there. And so, whether we are in the majority among the 19 or whether we are in the five or one percent, the conclusion is: We have to protect human life from conception.

MS. AQUINO. Madam President, I have no quarrel with the fact that a fertilized ovum or a zygote has life, but my question is: Would the deletion of the phrase "from the moment of conception" legalize abortion? We do not, one bit, intend to give statutory fiat to the legalization of abortion by deleting "the moment of conception."

I would think that we are overreacting to possible natural fears, but as Commissioners, should we abide by that kind of a fear in drafting this Constitution?

MR. VILLEGAS. Let me just answer that. The fears are based empirically on observation of human beings not only in the United States but even here who precisely are willing to cite American jurisprudence to allow the killing at two months or at three months. There are enough individuals who are actually articulating the jurisprudence now existing in the United States. So the fears are not unfounded; they are based on empirical observations of specific individuals who are moving towards the American disaster.

MS. AQUINO. Madam President, this will be my last intervention and we would rest our case according to the decision of the Commission.

The drift of the argument of Commissioner Villegas is that when we delete "the moment of conception," we are sanctioning murder or killing. This is not at all justified under the premises presented in the interpellations and in this intervention now, and I would have to take exception to that kind of a suggestion.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you.

In addition to the statements of Commissioner Villegas, I think Commissioner Villegas is fully justified in making that implication. That implication is a possibility although Commissioner Aquino said that abortion is sufficiently punished under the Revised Penal Code. We must admit that the Revised Penal Code is a mere statutory enactment and can be repealed at any time while we are raising the issue against abortion to the constitutional level. If we can protect the unerring adult by abolishing that penalty, how much more of an innocent child in the womb of the mother, the cherished gift and loving gift from God.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. This is just a minor intervention for the retention of the phrase "from conception." Let me just put this in the context of the present Constitution which has really been for the defense and the enhancement of life. In fact, the clinching argument for us in the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights, for the abolition of capital punishment was formulated very beautifully by Commissioner Bernas when he said: "It is not proven that the taking away of life saves life." Therefore, he said: "Why should we insist on imposing the death penalty?" There was a doubt one way or the other that we favored life, but our provisions are for the enhancement of the quality of life. Hence, let us be consistent, let us be prolife. Should there be the slightest iota of doubt, then let us still affirm life. Second, the drift of this Constitution has been for the underprivileged, for the defenseless and certainly, nobody is as defenseless as the fetus in the womb of his mother.

And so, this is the first time I beg this Commission to make an affirmation for life for this is one of the more beautiful things that will come out in this Constitutional Commission. Commissioner Ople spoke of setting a moral tone by means of this Constitution and I think this is a privileged moment for that.

Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. So that I can vote intelligently on this issue, may I address one question to Commissioner Bacani?

BISHOP BACANI. Yes, Madam President.

THE PRESIDENT. The Commissioner may proceed.

MR. SARMIENTO. Thank you.

According to the latest statistics, we have 20,000 abortions in Metro Manila a year; 500,000 abortions committed every year in the Philippines; 15,000,000 abortions committed around the world. In the midst of these abortions, we have two positions: One position is that the right of the unborn begins from the moment of conception. This is supported by *Gaudi'um et Spes, Mater et Magistra,* the Catholic Bishops' Conference of the Philippines, the Sacred Congregation for a Doctrine of Faith and *Aposto'cae Sedis* issued by Pius IX. But we have also this position which is advanced by another member of the church, Fr. Dancel of the Society of Jesus. He said:

> There can be no mind before the organism is ready to carry one and no spirit before the mind is capable of receiving it. I feel certain that there is no human soul, hence, no human person during the first few weeks of pregnancy as long as the embryo remains in the vegetative stage of its development.

So may we be clarified on this point, Commissioner Bacani. What is the official church position? There seems to be two contrasting church positions on this point.

BISHOP BACANI. Even in the Catholic Church, there would be one out of a thousand who does not agree. But let me cite to the body an article from two textbooks. One of them a liberal one, written by Philip Keane, is entitled: *Sexual Morality: A Catholic Perspective.* This is considered a liberal Catholic textbook. Let me read also from another textbook used here in the Philippines, written by Fr. Henry Peschke, S.V.D. It is good the body brought that out, because one of the papers given us pointed out that there is no Catholic consensus on this.

There is certainly a consensus that abortion is wrong and that life should be protected from the moment of conception but that the argument really revolves on the moment of ensoulment, as they say. Let me read a paragraph from this article entitled "The Enduring Consensus " by Philip Keane.

> Perhaps one of the most significant facts about current Roman Catholic moral theology is that it has consistently insisted on the moral evil of abortion, in spite of the pluralism that has entered into so many other aspects of moral theology. The tradition of the right to life has been sacred

> in Western thought for centuries. Catholic moralists do not seem at all ready to abandon this tradition in the area of abortion. They are not ready on any widespread basis to concede that the evil in abortion is an ontic but not a moral evil. Hence, the Church's stand on abortion remains a basically unified one . . .

And then from Fr. Peschke:

> On the background of these biblical doctrines and also influenced by the inheritance from Judaism, the young Christian Church formulated its judgment on abortion. From the earliest times it was one of decided rejection. The condemnation developed in sharp opposition to the attitude of the Greco-Roman world, in which abortion and infanticide were not viewed as serious moral offenses.
>
> Throughout the centuries Christianity continued to consider abortion as a crime. Grave sanctions were issued by the Church against Christians who would dare to commit this sin already in the first centuries. Vatican II once more takes a severe stand against it. It writes: "From the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes." The intrinsic reasons for the abjectness of abortion are the same as those which militate against the crime of murder and the killing of an innocent in general.

So that is just to assure the Members of this Commission of the unity in this tradition.

MR. SARMIENTO. Thank you, Madam President, and I also thank the Commissioner.

MR. BENNAGEN. Madam President, may I be recognized.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. In making a decision as to which life takes priority, the life of the mother or the life of the unborn, what criteria are contemplated by the committee on which to base the decision?

MR. VILLEGAS. We have articulated this moral principle called the principle of double effect. Whenever there is need, for example, to perform a surgical operation on the mother because of a disease or some organic malfunctioning, then the direct intention is to save the mother. And if indirectly the child's life has to be sacrificed, that would not be abortion, that would not be killing. So, in those situations which we said are becoming rarer and rarer because of the tremendous advance of medical science, the mother's life is safe.

MR. BENNAGEN. That is only insofar as the physiology is concerned. Does it take into account also the psychological status of the mother, the socioeconomic circumstances that surround the state of the mother?

MR. VILLEGAS. As we have said during the interpellations, there are thousands of other ways of helping the mother economically, psychologically, culturally. Precisely, it is the responsibility of society, private individuals, religious and charitable organizations and the State to apply all of those positive means to help the mother psychologically, socially, culturally, but definitely, not to opt for undoing a wrong by another wrong. We can never right a wrong by another wrong.

MR. BENNAGEN. Thank you, Madam President.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. May I ask that Commissioner Suarez be recognized.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

May I take up some interesting legal points with Commissioner Nolledo in order that all of us can be properly guided. I take it that the Commissioner concedes that this provision will affect not only our criminal laws but also our civil laws governing the rights of children. Is my understanding correct?

MR. NOLLEDO. I did not say it will affect; it will confirm our civil law and criminal law on the matter. Abortion is now criminally punished under the Revised Penal Code and that under Article 40 in relation to Article 41 of the Civil Code of the Philippines, to that child who is not yet born, there is accorded a presumptive personality, subject to being born under the conditions required by law, basically the separation from the maternal womb while alive.

MR. SUAREZ. Thank you for the clarification.

May I concentrate first on the criminal law implications of this provision. The Commissioner is right in calling attention to the fact that under the Revised Penal Code, there are already provisions governing abortion, and if I remember it correctly, there is a crime known as intentional abortion and unintentional abortion, plus abortion attended with some violence, et cetera.

If we are going to approve this particular provision from the criminal standpoint, then the offense of abortion after the moment of conception would be considered a crime of a higher category like murder. Would the Commissioner not agree with me?

MR. NOLLEDO. Not necessarily, although we categorize that as murder, because the child cannot defend himself.

MR. SUAREZ. Yes. There is a crime known as infanticide which contemplates a situation where the mother could kill her own child. There is a specific provision in the Revised Penal Code governing that kind of crime. In this particular case, if we approve this constitutional provision, how would we classify this incident where a mother commits an intentional abortion which is tantamount to killing the unborn child after the moment of conception? Would we consider that infanticide or murder?

MR. NOLLEDO. It is called abortion, subject to a mitigating circumstance which will lower the penalty if the mother killed the fetus in order to hide her dishonor. In the case of infanticide, if my memory serves me right, the child is already born, and that the child has less than three days of life.

MR. SUAREZ. So what we are saying is: This constitutional provision would not materially affect, alter or revoke the provisions governing abortion under the Revised Penal Code.

MR. NOLLEDO. The Commissioner is absolutely right. In that case, Congress may increase or decrease the penalty depending on the circumstances. But if we adopt this provision, Congress cannot abolish the laws against abortion.

MR. SUAREZ. So, in the same manner, all of the accomplices, like the attending physician, the midwife, the pharmacist who may have given these abortives would be affected. Their respective criminal liabilities would not at all be affected by this constitutional provision because their crimes are already covered by the present provisions of the Revised Penal Code.

MR. NOLLEDO. The Commissioner is correct.

MR. SUAREZ. Thank you.

May we go now to the civil aspects, since the Commissioner mentioned Articles 40 and 41. I take it that the Commissioner and I are agreed that it is birth which gives legal personality to the fetus or unborn child or conceived child or whatever we call it. Is that proposition acceptable to the Commissioner?

MR. NOLLEDO. Yes, that is expressly provided in Article 40 of the Civil Code of the Philippines.

MR. SUAREZ. When we speak of birth, we mean that that child must get out of the womb of the mother and breathe some oxygen from this world. Is that the correct interpretation in layman's language?

MR. NOLLEDO. The Commissioner is right. That is upon the cutting of the umbilical cord.

MR. SUAREZ. Right. And so, if we are going to respect the rights of the unborn child from the time of conception, that is going to affect not only our codal provisions governing this birth or personality but also hereditary and successional rights. Is my conclusion correct?

MR. NOLLEDO. Even if we do not adopt this, the Civil Code provision already gives right to an unborn child. If we adopt this, we talk only of protection against possible ending of the life of the child. The civil aspects would not be affected in any way.

MR. SUAREZ. Would I be, therefore, correct in assuming that this constitutional provision, notwithstanding the codal provisions governing legitimacy, successional rights, hereditary rights, would not be affected materially or substantially?

MR. NOLLEDO. The Commissioner is absolutely right.

MR. SUAREZ. Thank you for the clarification.

MR. NOLLEDO. Thank you for the questions.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. This is still on the future practical implications should this particular provision be approved by this body. What would now be the implication in the practice of certain contraceptive methods, like the use of IUD, which according to the report of Commissioner Villegas, is an abortifacient? Will this now be banned?

MR. NOLLEDO. The Commissioner will notice that when we talk of protection to life, we do not talk of preventive pregnancy. Preventive pregnancy can still be covered under what we call "population control policy." But the moment there is life, I think it is our duty to God and country to protect that life.

MS. QUESADA. The presentation of Commissioner Villegas and contained in the documents or materials which have been given to us, shows that some of these methods are abortifacient in nature because there is already the fertilization of the ovum. It is the implantation of the fertilized ovum that is prevented by the use of the intrauterine device.

MR. NOLLEDO. Commissioner Villegas will answer the Commissioner's question.

MR. VILLEGAS. This was the subject of interpellations of Commissioner Regalado and we made a distinction, if it can be scientifically proved that some contraceptives are abortifacients, and that they actually kill the fertilized ovum. Then, definitely those types of contraceptives will be declared unconstitutional, once we have this specific provision.

MS. QUESADA. Would this mean that the law will run after the producers of these contraceptive devices?

MR. VILLEGAS. Exactly, yes.

MS. QUESADA. And this covers also those who import these particular methods?

MR. VILLEGAS. Definitely.

MS. QUESADA. And would this mean that the practitioners – the family planning program implementors, the Ministry of Health, the Population Commission, private practitioners, et cetera – will now be held liable for the use of such abortifacient contraceptive methods?

MR. VILLEGAS. Yes, if they are accomplices to the use of these abortifacients.

MS. QUESADA. Would this mean that the law will also run after the "arbularyos" and the sellers of herbs in downtown Quiapo market, and the stallowners around Quiapo Church who acknowledgedly are selling herbs which contribute to abortion? Would these be the implications of the decision that we shall make here?

MR. VILLEGAS. Definitely, yes.

MS. QUESADA. Thank you.

MR. BENGZON. Madam President, apropos of the interpellations of Commissioner Quesada, may I ask a follow-up question?

THE PRESIDENT. The Commissioner may proceed.

MR. BENGZON. In connection with these questions asked by Commissioners Quesada and Villegas, which would lead to possible liability and prosecution of those persons that she mentioned, I assume that such possible liabilities and prosecution would only come to play if it is proven that such acts were deliberately done and if such methods were used deliberately to abort a fertilized ovum. Then, those liabilities would possibly attach. Am I correct?

Therefore, if such methods are used by these persons involved such as the health workers, social workers, et cetera, without their knowing that there was in fact a fertilized ovum already existing in the womb, then there is no liability at all that would attach. Am I correct?

MR. VILLEGAS. There would not be, but of course, the informal campaign should be there for us to be aware.

MR. BENGZON. Thank you.

MR. RAMA. Madam President, may I ask that Commissioner Maambong be recognized.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, I just want to ask a follow-up question. I do not mind saying that I am in favor of this protection which had been articulated by Commissioner Villegas, but as lawyers, we have to put our feet on the ground. When we go to court to present a case against a perpetrator of an alleged abortion, there are certain things we have to present before the judge, and one of these is proof that the woman is in fact pregnant.

I will not ask this question of Commissioner Nolledo because this is not a legal question; it is actually medical. Under the present medical advances, at what point of conception – I am talking of weeks or months – can a doctor or a hospital certify that the woman is in fact pregnant? There are varying answers to this. Some say that medical science has advanced to such an extent that a doctor can actually provide a medical certification that the woman is pregnant from the moment of conception or from two weeks. Some say it is two months; then there are some who say about the frog test, I have nothing against this text. I think that is not a very correct indication of pregnancy. What is the present medical science on this, Madam President?

MR. VILLEGAS. Manuals on pregnancy precisely state that normally, the woman realizes that she is pregnant when she misses her period. By that time, the human life in her womb shall have been present for approximately two weeks.

MR. MAAMBONG. All right, just one more point on this. Suppose a woman has gone to the hospital and let us assume, for purposes of argument, that she has in fact been pregnant for two weeks. At the present stage of our medical science when she gets examined after fertilization of two weeks, can a doctor in a hospital or a hospital anywhere in Manila or in the Philippines certify that a woman is already pregnant two weeks after fertilization?

MR. VILLEGAS. It would depend on the expertise of the doctor and the possible equipment that she or he has.

MR. MAAMBONG. That is precisely my point.

Let us suppose that we go to the Makati Medical Center, which is the best equipped in the Philippines, and let us suppose that they have the best equipment. Can Makati Medical Center present truthfully a certification that a woman has been pregnant two weeks after fertilization?

MR. VILLEGAS. Yes. Given the present status of medicine, that certification can be given, of course, with statistical probability that is always contained in such a certification.

MR. MAAMBONG. I am not questioning the Commissioner's answer. But is this answer documented by facts? I ask so, because as of the moment, I am of the impression that under the so-called "frog test," "rabbit test" or whatever it is, it has to be at least two months from fertilization before a doctor or a hospital can issue that certification.

MR. VILLEGAS. This statement about the woman being pregnant from the time she misses her period and the human life in her womb being approximately two-weeks old has been made by medical experts and that is where the scientific evidence can be found. But I think the details of when certification can be made precisely are details that should be left to Congress to determine if and when it is questioned.

MR. MAAMBONG. I can understand that.

MR. COLAYCO. Madam President, may I intervene.

MR. MAAMBONG. Yes.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Thank you, Madam President.

Essentially, the problem presented by Commissioner Maambong really involves legal evidence. It all boils down as whether the evidence presented by the government, taking into account the evidence presented by the counsel for the defense, will be accepted by the court or not. Commissioner Villegas has tried to prove that his conclusions are supported by available scientific data. But whether there has been really life when the attempted or alleged abortifacient or whatever method is used to abort a child is present, that involves a question of evidence.

MR. MAAMBONG. I can agree with that. That is precisely why I premised my question on the fact that as lawyers, we have to put our feet on the ground.

MR. COLAYCO. Yes, that is true.

MR. MAAMBONG. When we go to court, the court will always ask: "All right, you are charging somebody with abortion. Where is your certification to the effect that the woman was pregnant?" It is just like in physical injuries. To my layman's thinking, I understand that the pregnancy of a woman can be proven only from two months. That is why I am asking Commissioner Villegas if we have medical facilities to show that a woman can be proven pregnant two weeks after pregnancy. If that is so, then we can now have that medical certificate and present it to the court.

That is the only point.

MR. COLAYCO. But let us not forget that the principle which is established in this section is nothing but a principle.

MR. MAAMBONG. Yes.

MR. COLAYCO. That is all.

MR. MAAMBONG. I am satisfied with the Commissioner's answer.

MR. RAMA. Madam President, I ask that Commissioner Aquino be recognized.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, I am apprehensive that when this provision is adopted, the exploration of knowledge on an issue that is so complex will be brought to a stop even before it has begun. The provision has been a source of conflicting opinions. An important issue such as this and which elicits diverse and complex responses should be more productively addressed by legislation, which has a better chance of concretely addressing our hidden fears and possibly providing a more manageable consensus on the issue.

Madam President, I would submit that this issue belongs properly to the domain of legislation.

THE PRESIDENT. Are we ready now for a vote?

MR. VILLEGAS. I think we are ready to vote, Madam President.

MR. GASCON. Madam President.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. Before we vote, I would like to be clarified on the parliamentary situation. Commissioner Rigos made a motion to delete.

THE PRESIDENT. We are going to vote on Commissioner Rigos' amendment.

MR. GASCON. So, it will not be on Commissioner Padilla's amendment to the amendment?

THE PRESIDENT. Commissioner Padilla's amendment to the amendment.

MR. VILLEGAS. The motion to delete will be the first, then later on we can take Commissioner Rigos' amendment.

MR. RAMA. It is Commissioner Rigos' amendment to his anterior amendment.

THE PRESIDENT. The amendment of Commissioner Rigos is to delete the phrase "from the moment of conception."

MR. VILLEGAS. That is right.

THE PRESIDENT. In other words, Commissioner Rigos' amendment is on line 2 of page 3, which reads: "The State shall equally protect the life of the mother and the life of the unborn CHILD." Did I state it correctly, Commissioner Rigos?

REV. RIGOS. Yes, Madam President.

BISHOP BACANI. Madam President, it will be clear that if we vote "yes," it is for the deletion of the phrase "from the moment of conception." If we vote "no," it is for the retention. Madam President, may I ask for a nominal voting.

MR. PADILLA. Madam President.

THE PRESIDENT. Let us settle first Commissioner Rigos' motion to delete the phrase "from the moment of conception" without prejudice to Commissioner Padilla's amendment.

MR. PADILLA. My proposal, Madam President, is just to delete the words "the moment of."

MR. VILLEGAS. That is accepted, Madam President.

THE PRESIDENT. Which one, Commissioner Rigos' amendment?

MR. VILLEGAS. No, Commissioner Padilla's amendment.

THE PRESIDENT. Yes, but we have here the amendment of Commissioner Rigos which we have to dispose of, first, unless Commissioner Rigos is withdrawing his amendment.

REV. RIGOS. I am not withdrawing my proposed amendment.

THE PRESIDENT. It is very clear.

MR. REGALADO. Madam President, just a parliamentary inquiry.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. Will we follow the procedure that we had yesterday, that if the motion to delete is carried, that is without prejudice to the filing of another amendment?

THE PRESIDENT. Yes, to whatever remains.

MR. REGALADO. Embodying the proposal of Commissioner Padilla?

THE PRESIDENT. That is right, because the committee report will remain as is, so it can be subject to another amendment.

MR. REGALADO. Thank you, Madam President.

THE PRESIDENT. Are we ready now or shall we have more introductions?

BISHOP BACANI. Madam President, if it is retained, will the amendment of Commissioner Padilla still be acceptable?

MR. VILLEGAS. That is right. The body is ready to vote, Madam President.

NOMINAL VOTING

THE PRESIDENT. All right, what is to be voted upon is the deletion of the phrase "from the moment of conception," on lines 2 and 3 of page 3, Section 9, and there is a request for nominal voting. So, if the vote is "yes," it is to delete "from the moment of conception." If the vote is "no," then that means to say that the phrase "from the moment of conception" remains.

Will the Secretary-General please call the roll?

THE SECRETARY-GENERAL, *reading:*

Abubakar	
Alonto	
Aquino	Yes
Azcuna	No
Bacani	No
Bengzon	No
Bennagen	Yes
Bernas	No
Rosario Braid	No
Calderon	No
Castro de	No
Colayco	No
Concepcion	No
Davide	No
Foz	
Garcia	Yes
Gascon	No
Guingona	No
Jamir	No
Laurel	
Lerum	No
Maambong	No
Monsod	No
Natividad	No
Nieva	No
Nolledo	No
Ople	
Padilla	No
Quesada	Yes
Rama	No
Regalado	No
Reyes de los	No
Rigos	Yes
Rodrigo	No
Romulo	No
Rosales	
Sarmiento	No
Suarez	Yes
Sumulong	No
Tadeo	Yes
Tan	No
Tingson	

MR. TINGSON. Madam President, I am voting yes because I believe that this would better be taken care of by legislature later on.

THE SECRETARY-GENERAL, *reading:*

Treñas ....
Uka .... No
Villacorta .....
Villegas ....No
Muñoz Palma .... No *(Applause)*

THE PRESIDENT. There should be no clapping or booing, please.

SECOND ROLL CALL

THE PRESIDENT. The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, *reading:*

Abubakar ....
Alonto ....
Foz ....
Laurel ....
Ople ....
Treñas ....
Villacorta ....

THE PRESIDENT. Commissioner Rosales has just entered.

THE SECRETARY-GENERAL, *reading:*

Rosales .... No

THE PRESIDENT. The results show 8 votes in favor and 32 against; so, the proposed Rigos amendment is lost.

MR. RAMA. Madam President, may I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, my proposal is just to delete the words "the moment of," so the phrase will read: "the life of the unborn from conception." I think this was accepted by the committee.

MR. VILLEGAS. Yes, the amendment is accepted by the committee.

THE PRESIDENT. This amendment has been further enhanced by Commissioner Bernas' amendment which added the words "from conception"?

MR. VILLEGAS. "From conception," Madam President.

VOTING

THE PRESIDENT. Are we ready to vote on the amendment which has been accepted by the committee? The proposed amendment reads: "The State shall equally protect the life of the mother and the life of the unborn from conception."

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Four Members raised their hand.)*

The results show 33 votes in favor, 3 against and 4 abstentions; the sentence, as read with that amendment of Commissioner Padilla, is approved.

MR. RAMA. Madam President, may we take a vote on the provisions of the whole section, as amended.

THE PRESIDENT. We will first read Section 9. Is there any other amendment?

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I have a proposed amendment to the first paragraph of Section 9. It is a very minor amendment to add the words "AND MARRIED" after "family." So the first sentence will then read: "The State recognizes the sanctity of family AND MARRIED life and shall protect and strengthen the family as a basic social institution."

THE PRESIDENT. What does the committee say?

MS. AQUINO. Madam President, the committee regrets that it cannot accept the amendment, precisely on the premise that family life is premised on married life.

MR. DAVIDE. So, when the committee therefore used the words "family life," it is deemed to include married life.

MR. VILLEGAS. Yes.

MS. AQUINO. That is the consensus in the committee.

MR. DAVIDE. With that explanation and clear intention, I am not insisting on my proposed amendment.

MS. AQUINO. Thank you.

MR. VILLEGAS. Thank you.

THE PRESIDENT. Is there any other amendment? Commissioner Bennagen is recognized.

MR. BENNAGEN. Since there was the question whether or not family life includes married life, does it also include instances where there is no marriage but there is family life? Is that also the understanding in the committee? There are cases of family life without necessarily having to get married.

MS. AQUINO. It is included.

MR. BENNAGEN. Thank you, Madam President.

MR. RAMA. May I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I just want to add the words "AND PRIMARY" after the word "natural" on line 3, page 3 of Section 9. This would harmonize with the section on Education that was introduced by Commissioner Aquino. So it will read: "The natural AND PRIMARY right and duty of parents."

MS. AQUINO. The committee accepts the amendment.

THE PRESIDENT. How will it read?

MS. AQUINO. Section 9, lines 3 to 6 on page 3, will now read: "The natural AND PRIMARY right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the government."

MR. COLAYCO. Madam President.

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. May I ask if Commissioner Monsod will entertain an amendment.

MR. MONSOD. May we hear it first.

MR. COLAYCO. I suggest to put "PRIMARY" before the word "duty" on line 3, so it will read: "The natural right and PRIMARY duty." The word "natural" is necessarily primary.

MR. MONSOD. We use the word "PRIMARY" to denote the superior right of the parents as against the State.

MR. COLAYCO. I will not insist; I was just thinking.

MR. GASCON. Madam President.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. I have another amendment to the same sentence. On line 5, delete the words "aid and," so it will read: ". . . . development of moral character shall receive the support of the government." I feel that the words "aid and" are already covered by the word "support."

THE PRESIDENT. What does the committee say?

MR. TINGSON. We accept the amendment.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. Madam President, I want to ask a question regarding the interpretation of Commissioner Aquino on what Commissioner Bennagen meant when he mentioned "no marriage at all" or "no civil marriage." What does the Commissioner mean? Are they the same?

MR. BENNAGEN. No. I contemplate on the possibility of consenting adults plus children living a family life.

BISHOP BACANI. Yes, but together they have a mutual and a stable compact.

MR. BENNAGEN. Yes.

BISHOP BACANI. I see. I was wondering if it was something, at least, less than that, then the State shall strengthen that type of living-in situation. That is not the idea.

Thank you.

MR. RAMA. Madam President, I move that we vote on the whole Section 9.

THE PRESIDENT. Will the chairman please read Section 9, as amended.

MR. TINGSON. Section 9, as amended, reads: "The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. IT SHALL ACCORD EQUAL PROTECTION TO life of the mother and the life of the unborn from conception. The natural AND PRIMARY right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the government."

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Before we vote, I just want a clarification on the last phrase "development of moral character." I would like to know from the committee if this is well considered, considering that with the insertion of the phrase "development of moral character," it would appear that the right and duty of parents is limited to development of moral character and I do not think that is the intention. I just want a one-sentence explanation on this.

MR. TINGSON. It is not limited to that, but the committee felt that that is of primary importance; that it deserves to be mentioned because the morality of a young man covers, more or less, the whole plethora of his personality.

MR. MAAMBONG. I ask this because this phrase "and the development of moral character" does not appear in the 1973 Constitution. However, I will not insist on my clarification, with the assurance that the words "development of moral character" do not limit the duty and right of parents.

MR. TINGSON. The phrase does not appear in the 1973 Constitution but we want to make our Constitution better than the 1973 Constitution.

MR. MAAMBONG. Does this not really limit the right and duty of parents only to the development of moral character?

MR. TINGSON. No.

MR. MAAMBONG. Thank you.

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. May we request Commissioner Tingson to read again the second sentence of this section. It seems to be a little different from that in the copies we have.

MR. TINGSON. There was a little mistake there a while ago. The second sentence reads: "It shall equally protect the life of the mother and the life of the unborn from conception."

MR. REGALADO. Thank you.

THE PRESIDENT. Are we ready now?

SR. TAN. Madam President.

THE PRESIDENT. Commissioner Tan is recognized.

SR. TAN. May I just ask the committee how the State will give the family aid for moral character?

MR. TINGSON. We already deleted that upon the amendment suggested by Commissioner Gascon. The word "aid" is eliminated; it will now be "shall receive the support of the government."

SR. TAN. May I know how the government shall support the moral character of a family in Tondo?

MR. TINGSON. I will ask Commissioner Aquino to say something on that.

MS. AQUINO. The forms and modalities of state support are varied. It may take the form of welfare services and social services in the fields of education. It may take the form of scholarships and other incentives to enforce the spiritual and moral formation of the citizens.

SR. TAN. In other words, this is an emphasis on the support for moral development, but it does not mean that it would not help physically or materially because nothing is said about material help. One cannot preach about God to a hungry stomach. That is what I mean.

MS. AQUINO. Madam President, over and above the other provisions of the article on state support, material support is already included. The committee is of the sense that a complete development of moral character also partakes of the need and requisite for material support from the State. It is not excluded.

SR. TAN. Thank you for that explanation.

MR. RAMA. The body is ready to vote, Madam President.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. This may not be very, very important but I just want to ask Commissioner Villegas or our committee. I am, of course, disturbed by the fact that in the United States and other places, there is sympathy towards defining a family as including an effeminate man living with another man. We just want to make sure that when we speak of "family," we are speaking of the normal conservative definition of family, and that is, a man and a woman married together. I know we understand that, but I, personally, would like to say that for the record.

MR. VILLEGAS. Madam President, both the natural law, the age-old traditions in the Philippines and religious values affirm that normal family life relationship, not conservative, is between a man and a woman.

MR. RAMA. We are ready to vote, Madam President.

VOTING

THE PRESIDENT. Section 9 has been read by the chairman.

As many as are in favor of Section 9, as amended, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Few Members raised their hand.)*

The results show 34 votes in favor, none against and 4 abstentions; Section 9, as amended, is approved.

MR. RAMA. Madam President, we approved Section 3 piecemeal last night. We have not voted on it as a whole section, so I move that we vote on Section 3 as a whole section, as amended.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. The formulation that the committee remembered last night was: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. WHEN ENTERING INTO A TREATY, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST AND THE RIGHT TO SELF-DETERMINATION."

THE PRESIDENT. Is there the word "and" between "SOVEREIGNTY" and "TERRITORIAL INTEGRITY"?

MR. TINGSON. There is no "and," Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Before we vote on the proposed amendment, may I ask Commissioner Bacani who fathered this amendment one clarificatory question.

THE PRESIDENT. Which one? We are on Section 3.

MR. SARMIENTO. This section to be voted upon by the body, Madam President. I understand it was fathered by Commissioners Romulo and Bacani.

THE PRESIDENT. Please proceed.

MR. ROMULO. Yes, I will share the paternity.

MR. SARMIENTO. Last night, Madam President, Commissioner Romulo stated that a military bases agreement or any treaty concerning military bases would be excluded from the concept of treaty. But after that was clarified, Commissioner Bacani informed this Representation that it was his intent that the concept of treaty covers agreements or treaties governing military bases.

So, may I be clarified on this point.

MR. ROMULO. Commissioner Bacani talked to me this morning and he now agrees that it is a general provision. He was confused yesterday.

BISHOP BACANI. Madam President, when I introduced this formulation, together with Commissioner Romulo, what I intended was that it should be as general as possible. The sentence says: "WHEN ENTERING INTO EXECUTIVE AGREEMENTS, TREATIES AND OTHER INTERNATIONAL AGREEMENTS, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, THE NATIONAL INTEREST AND THE RIGHT OF SELF-DETERMINATION." That should be a general statement and nothing should be excluded from it, I believe.

MR. SARMIENTO. We are now confused, Madam President, because the position of Commissioner Romulo is that treaties governing military bases could be excluded from the concept of treaty under that section. But here comes Commissioner Bacani saying that it should be understood to mean a general provision, a concept governing all treaties, without exceptions.

THE PRESIDENT. Does Commissioner Romulo see any contradiction between his statement and that of Commissioner Bacani's, as stated, so that this can be explained or clarified?

MR. ROMULO. My intention was to exclude foreign bases from treaties; I should say treaties regarding foreign bases. As I explained yesterday, the Transitory Provisions formulated by us excludes the concept of foreign bases other than the RP-US Military Bases Agreement.

BISHOP BACANI. Madam President, all I am trying to say is that when we do enter into treaties and other international agreements, the paramount consideration shall be what is mentioned here. On the other hand, whether or not the body intends to exclude the foreign bases from this treaty is another question. Whether they are included or excluded, if treaties are made with any other nation, then these conditions should be of paramount interest. I think that is the sense of it.

THE PRESIDENT. Is there any other question?

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. This is not on behalf of the committee. This is just a personal observation.

May I inquire from Commissioner Romulo the intent of the provision as interpreted by him? Am I correct in understanding that the interpretation of his provision, dovetailed with the provision that has been approved for the Transitory Provisions, is that any and all treaty arrangements on foreign bases will not be allowed anymore?

MR. ROMULO. Yes, except for . . .

MS. AQUINO. Except that which pertains to the RP-US Military Bases Agreement in the Transitory Provisions. In effect, does it not mean that we are reserving only for the Americans the use of the national territory for any kind of foreign bases?

MR. ROMULO. Only if the Chief Executive decides to enter into a new treaty. That is up to the Chief Executive and the Congress.

MS. AQUINO. Assuming that the Chief Executive decides, we cannot allow anymore any other kind of foreign bases, for example, as cited by Commissioner Azcuna, the possibility of a joint ASEAN foreign base in the Philippines or in Indonesia or in Malaysia. Would that be the effect?

MR. ROMULO. That is our thought because we hope to dismantle the U.S. bases as soon as possible and thereafter we do not want any other bases here.

MS. AQUINO. Thank you, Madam President.

MR. RAMA. We are ready to vote, Madam President.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. BENNAGEN. In the contemplation of the committee, how are the criteria for paramountcy of national sovereignty, integrity, national interest and right to self-determination determined? May I ask the proponents.

THE PRESIDENT. I beg the Commissioner's pardon?

MR. BENNAGEN. I would like to ask the proponents how the paramountcy of national sovereignty, territorial integrity, national interest and right to self-determination be determined in deciding on an international treaty.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. We believe that the Chief Executive and Congress in entering into these agreements shall try as realistically as possible always to uphold our interests, our rights on a truly mutual, beneficial and reciprocal basis; and that with regard to territorial integrity, of course, no part of our territory will be compromised. And above all, our national interest, which should be perceived by the Executive and Congress, shall prevail.

MR. BENNAGEN. Would this include also consultation with a broad sector of the Philippine population?

MR. ROMULO. I suppose so, because Congress will have to be involved, and so is the Executive as in relation to our section on social justice regarding consultation with the people.

MR. BENNAGEN. Will it include referenda and plebiscites?

MR. ROMULO. I think I will leave that to the proper authorities – that would either be Congress or the President.

MR. BENNAGEN. Thank you, Madam President.

MR. RAMA. We are ready to vote, Madam President.

MS. QUESADA. Madam President, just a clarification before we vote.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Yesterday I do recall that when we talked about the Transitory Provisions, the treaty is transient, which means that it will end. Whatever principle we put there will actually not be operational until after it shall have been implemented. Therefore, when we talk about a principle placed in the Declaration of Principles, it should be something that shall guide us in our future decisions. Therefore, when we say we exclude the matter of foreign bases in this particular executive agreement or treaty that the State will get into, then we will not be governed by any principle in such future transactions, because we are, in effect, saying that there will be no change in the present situation. So, the interpretation was just given by Commissioner Romulo. He clarified that we are giving a special place for the foreign bases when, in fact, international agreements would consider a vital issue as allowing bases in the future.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I am also one of those who helped draft that and perhaps we can settle it by saying that the subject of the US military bases is covered by the Transitory Provisions, not only because it is transient, but because it can also be a contingent event.

With respect to the principle, the principle of foreign policy in Section 3 says that all treaties shall be governed by the principles of national sovereignty. But Commissioner Romulo also read into the record that in the first place, treaties on any foreign base other than those in the Transitory Provisions are not contemplated as within the area that can be entered into. Therefore, that is the reconciliation between the opinion of Commissioner Bacani and Commissioner Romulo. In the first place, we will not enter into any treaty on foreign bases except in the contingent and transitory possibility after 1991 which is covered by the Transitory Provisions. In all other treaties which are allowed, then those principles of sovereignty, territorial integrity, national interest and self-determination will apply.

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. I would like to propose an amendment that will reconcile all the views. Instead of "WHEN ENTERING INTO A TREATY," we just say: "IN OUR RELATIONS WITH OTHER STATES, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY . . ." It ties up also with foreign policy. It is the broad field of international relations.

MR. ROMULO. We accept, Madam President.

MR. GASCON. Madam President, I will just ask one question.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. When we say "IN OUR RELATIONS WITH OTHER STATES" as a basic principle, considering all of these bases, will this also relate to our attitude as we enter into the period 1991 which is stipulated in the Transitory Provisions?

MR. AZCUNA. Yes, Madam President. It will include all our relations with other States.

MR. GASCON. Including that which is already stipulated in the Transitory Provisions?

MR. AZCUNA. Yes.

MR. GASCON. Thank you.

MR. RAMA. Madam President, the body is ready to vote on the provision, as amended.

MR. TINGSON. Madam President, I will ask our committee member, Commissioner Azcuna, to please read the amended section.

MR. AZCUNA. Section 3 will now read as follows: "THE STATE SHALL PURSUE AN INDEPENDENT FOREIGN POLICY. IN OUR RELATIONS WITH OTHER STATES, THE PARAMOUNT CONSIDERATION SHALL BE NATIONAL SOVEREIGNTY, TERRITORIAL INTEGRITY, NATIONAL INTEREST, AND THE RIGHT TO SELF-DETERMINATION."

MR. REGALADO. Madam President.

THE PRESIDENT. Commissioner Regalado is recognized.

MR. REGALADO. With respect to the second paragraph, instead of saying "IN OUR RELATIONS," since we are using the third person, it should be "IN ITS RELATIONS."

MR. AZCUNA. We accept, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of Section 3, as read, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Few Members raised their hand.)*

The results show 33 votes in favor, 1 against and 3 abstentions; Section 3 is approved.

MR. RAMA. Madam President, I ask that Commissioner Monsod be recognized to present an amendment to Section 4.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I would like to present an amendment to Section 4.

At this juncture, the President relinquished the Chair to the Honorable Regalado E. Maambong.

MR. MONSOD. Mr. Presiding Officer, we just approved the section protecting the unborn. A few weeks ago, we approved the section protecting life by abolishing the death penalty, subject only to certain exceptions. Our amendment to Section 4 is a continuation of our affirmation and commitment to life for all our people from the scourge of nuclear weapons. Yesterday, we also voted to give some options on the questions of the bases. It is even more important now to affirm the sense and commitment of this Commission with respect to nuclear weapons. We are happy to say that this is probably one of those proposals of the committee and the body where we have, I believe, unanimity, where we can all get together because we all share that same concern.

I would like to propose that the section be reformulated to read as follows: "THE PHILIPPINES SHALL, CONSISTENT WITH CONSIDERATIONS SOLELY OF NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

This was codrafted by Commissioner Azcuna, who is the prime author and may I read the names of the coauthors: Commissioners Rigos, Romulo, Colayco, Rama, Regalado, Tingson, Davide, Villegas, Gascon, Bernas, Concepcion, Sumulong, Bacani, Sarmiento, Calderon, Muñoz Palma, Tadeo, Ople, Natividad, Nieva, Rosales, Maambong, Tan, Quesada, Bengzon, Treñas, Foz, Uka, de los Reyes, Guingona, Rodrigo, Jamir, Suarez, Rosario Braid, Nolledo, Aquino, de Castro and myself.

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The chairman of the committee is recognized.

MR. TINGSON. Inasmuch as our committee is involved in the formulation of this amendment and that practically everyone is a coauthor of this amendment, our committee joyfully accepts the amendment.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. This is not on behalf of the committee but may I request a clarification on how the committee would operationalize the term "SOLELY" on the basis of national interest?

MR. MONSOD. The formulation as it is merely asserts that the national interest is paramount. Therefore, the principle or the policy that Commissioner Azcuna defined in his sponsorship and the nonabsolutist character are adopted by this proposal. "National interest" is defined by the executive and the legislative and this means that we are making a declaration that this is a policy of the State and that it must be consistent with the national interest. If there are byproducts or other interests that may be served, then those are incidental and secondary. Unless the national interest is served first, then there shall not be any modifications or exceptions.

MS. AQUINO. I appreciate some kind of an inconsistency between cognition and the formulation of that provision because when one says "SOLELY" in the national interest, it is as if to say that it is the exclusive ground upon which we will adopt this kind of a policy; whereas, the Commissioner is also articulating that it seems to approximate the idea that it is the primary concern. I would suggest that we delete "SOLELY." I would say there is a cognitive dissonance.

MR. MONSOD. Let me ask the committee because it has accepted the proposal. The intent is that unless the national interest is served and when deciding it, one should not think of other considerations other than the national interest. If, however, there are other benefits that may arise – for example, it is an ASEAN agreement – then that is something that comes as a byproduct. As far as we are concerned, what is important is that the decision is based solely on our national interest.

THE PRESIDING OFFICER (Mr. Maambong). Before we proceed with the details of this formulation, the Chair would like to know from the committee if it has in fact accepted the proposal.

MR. TINGSON. I am speaking for the majority members of the committee. We are accepting the amendment.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Guingona is recognized.

MR. GUINGONA. I am one of the cosponsors of this proposed amendment and this amendment is in consonance with a statement that I made that we are all in favor of this anti-nuclear stand, but it should be declared as a policy rather than one that would be immediately implementable.

With respect to the question of the honorable Commissioner Aquino, as pointed out by Commissioner Monsod, the national interest could still be the sole consideration even if other interests are observed because the other interests are secondary. In other words, they are incidental. For example, if the interest of the ASEAN or some other country is affected because of our agreement with these entities or countries, still the primary, fundamental and exclusive consideration will be the national interest which includes the national security and the consideration of the very existence of the State.

MR. GARCIA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Garcia is recognized.

MR. GARCIA. As a member of the committee, we would like to welcome the overwhelming support which the Members of the Commission have given to the nuclear weapons provision in Section 4. At the same time, I understand that this definitely means that we are against the presence of nuclear weapons in our country, and also the entry and transit of nuclear-armed and nuclear-capable vessels and aircrafts in the country and the dumping of nuclear wastes, all of which present very clear and present danger to the survival of our people.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Monsod is recognized.

MR. MONSOD. I just wanted to respond to that, because in the formulation of this amendment which represents a reconciliation of wide and divergent views, we precisely focused ourselves only on nuclear weapons, and we adopted the Azcuna explanations with respect, for example, to ships docking. We did not include the uses of nuclear medicine or nuclear plants for that matter. This is purely nuclear weapons.

MR. GARCIA. Yes.

MR. MONSOD. I would just like to clarify that we will not be agreeable to reading into the minutes of these proceedings an amplification beyond the intent and the letter of the amendment.

MR. GARCIA. Precisely, Mr. Presiding Officer, if we do not allow nuclear weapons in the country, we must have a mechanism of verification so that we can be sure that within the national territory, as defined in our Article on National Territory, no nuclear weapons are present.

MR. MONSOD. I agree, Mr. Presiding Officer.

MR. GARCIA. I think it is up to the government, therefore, to determine a system of verification that no nuclear-armed vessels or aircraft with nuclear weapons in their possession be allowed in Philippine territory. I think that is clear.

MR. MONSOD. Yes, I think I agree to the verification, but I would like Commissioner Azcuna to explain the various circumstances that do not come within the strict definition and intent of this article, as he explained in his sponsorship speech. Since this adopts his sponsorship speech, I think that should be the ruling interpretation of this amendment.

THE PRESIDING OFFICER (Mr. Maambong). The Chair would like to address a query to Commissioner Garcia. Is Commissioner Garcia objecting to the wordings?

MR. GARCIA. No, Mr. Presiding Officer. In fact, I welcome the overwhelming support which has been manifested by the Members of the Commission as to the importance of the nuclear weapons issue, and I am simply clarifying it. It is rather important that in the future there should be methods of verification to be determined by the government to make sure that these weapons truly are not present, because it is the policy of some of the superpowers neither to confirm nor to deny the existence of these nuclear weapons.

In fact it is interesting to note – if the Members want to listen to some highlights regarding this point – how some of our former leaders have answered this question. For example, when President Marcos himself was asked about this issue of nuclear weapons, he said: "As far as we are concerned, we have not been consulted and, therefore, as far as we are concerned there are no nuclear weapons." The answer of General Ver to this question is more interesting. He said: "We have an agreement with the U.S. that they will report to us any entry of nuclear weapons into Clark or Subic, but sometimes, they do not do it."

In other words, it is up to our Philippine government to exercise that authority to make sure that no nuclear weapons are, in fact, present.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Chair is clarified. There is no disagreement between Commissioner Garcia and the formulation of Commissioner Monsod.

Commissioner Monsod is recognized.

MR. DE CASTRO. Mr. Presiding Officer.

MR. MONSOD. Let me defer to Commissioner de Castro first and then I shall speak later.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment. Before the Chair recognizes Commissioner de Castro or Commissioner Azcuna, Commissioner Gascon has been standing there for quite some time.

Commissioner Gascon is recognized.

MR. GASCON. I will defer until this interpellation, Mr. Presiding Officer. I would like to seek some clarification in view of the points raised by Commissioner Aquino.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you. Just one question to the honorable proponent.

Does "NATIONAL INTEREST" include national defense and security?

MR. MONSOD. Yes, Mr. Presiding Officer.

MR. DE CASTRO. Thank you.

MR. GASCON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Is Commissioner Gascon now prepared to say his piece?

MR. GASCON. Yes.

THE PRESIDING OFFICER (Mr. Maambong). Please proceed.

MR. GASCON. In view of the statements made by Commissioner Aquino that the word "SOLELY" seems to imply that it shall be the only consideration when we refer to the issue of nuclear weapons, I would like to add further – as I expressed when I signed that resolution – that in fact, we are against nuclear weapons, not simply for national interest but because of our commitment to world peace.

I would like to support Commissioner Aquino's request, if the major proponent does not mind, to delete the word "SOLELY" and instead just use the words "CONSIDERATIONS OF NATIONAL INTEREST" which would be a little more open.

MR. MONSOD. Mr. Presiding Officer, I am amenable to that amendment, but the amendment is now under the jurisdiction of the committee, so I would like to ask the committee if they are also amenable.

MR. TINGSON. The committee similarly accepts the amendment.

THE PRESIDING OFFICER (Mr. Maambong). Could Commissioner Gascon hold on to his amendment? The Chair wishes to recognize Commissioner Tan first.

SR. TAN. Mr. Presiding Officer, I welcome this resolution, and as far as I can hear, there is no big contradiction between Commissioner Garcia and Commissioner Monsod. But I think we should not be naive about just placing such a resolution without making it clear, at least, on the record that this includes freighters, boats or whatever that carry nuclear weapons, and it would also include using our seas as a dumping ground for nuclear waste.

MR. MONSOD. Mr. Presiding Officer, I wanted to defer to Commissioner Azcuna on the various interpretations here because he has covered it very exhaustively in his sponsorship speech.

THE PRESIDING OFFICER (Mr. Maambong). Could we take care of the Gentleman on the floor first?

Does Commissioner Ople seek to be recognized?

MR. OPLE. Yes, Mr. Presiding Officer, I was awaiting for my turn. Thank you very much.

Since the committee has now acquired jurisdiction over the Azcuna-Monsod amendment, will the committee yield to a question or two? Does this amendment also contemplate a mandate to the Philippine government to insist that the pursuit of a policy on nuclear weapons be a controlling guideline if there is a new negotiation with the United States concerning the military bases? Is it a mandate to the Philippine government and a limitation as well so that if it is deemed in the national interest by the government to enter into new negotiations, that the section will be a controlling guideline to our own negotiators on behalf of the Philippine government?

MR. AZCUNA. Yes, Mr. Presiding Officer.

MR. OPLE. Does it also mean that if there are such negotiations, a process of verification can be established as part of the treaty?

MR. AZCUNA. Yes, Mr. Presiding Officer.

MR. OPLE. Mention has been made of the ASEAN and the possibility that in the future, the Philippines can host bases of a regional character. Is that interpretation correct, Mr. Presiding Officer?

MR. AZCUNA. That was a possibility in the light of the previous wording where we mentioned "treaty." We were precisely clarifying that. But the interpretation that has been distilled from the amendment yesterday is not to allow even ASEAN military bases in our territory within the context of the present wording of what we have approved. The idea really is that there will be no further foreign military bases allowed, except those that have been allowed. In other words, something like – to use Commissioner Bacani's words – a "necessary evil." We do not want anymore necessary evils around. That is why we put it in the Transitory Provisions; we hope that it will not last forever. And we do not intend to have any other foreign military bases in our country.

MR. OPLE. If there is a Zone of Peace, Freedom and Neutrality – of course, this is contingent on a reconciliation of the Indo-Chinese states and the countries that compose the ASEAN – and since the neutrality that is contemplated here is a neutrality guaranteed by the combined military forces of the countries that have signed a protocol on this zone, will this interpretation now foreclose the possibility of the Philippines as a signatory to a future neutrality treaty from, let us say, enforcing a covenant among these nations that may call for stationing joint facilities in any part of the region?

MR. DE CASTRO. May I answer that?

MR. AZCUNA. Yes, please.

MR. DE CASTRO. I have not seen any concept of neutrality in any of the provisions we have approved so far, as well as the proposition on Section 4. The concept of neutrality is never intended nor can one see it in this Section 3 and the proposed Section 4.

MR. OPLE. Yes, Mr. Presiding Officer, it is very obvious that there is no neutrality provision in any of these sections under discussion.

MS. AQUINO. Mr. Presiding Officer.

MR. OPLE. I am merely raising some hypothetical questions in the light of the declaration of the countries composing the ASEAN. Someday they may want to achieve a Zone of Peace, Freedom and Neutrality in this part of the world.

So, this is not related, Mr. Presiding Officer, to Section 3 or even directly to Section 4. I just wanted to put that on record so that future researchers shall not fault us for this oversight, that the ASEAN is not a military pact. All the governments making up the ASEAN, individually and collectively, have stated that ASEAN is not a military pact and will not be. In the words of Mochtar Kusumaatmadza, the foreign minister of Indonesia, ASEAN will never rise to the level of a military pact in the future. I am not saying that we should believe these words of our government in the ASEAN but although bilateral security ties do obtain within the ASEAN, all the governments making up the ASEAN have said time and again that they do not want to have a military pact and they do not anticipate the ASEAN rising someday to the level of a military organization. That is all I wanted to put on record, Mr. Presiding Officer.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. I will attempt to clarify this on behalf of the committee. Consistent with the intent of Section 3, the possibility of the Philippines being a signatory to any kind of a collective security arrangement in the ASEAN region is not prohibited. However, conformably with the interpretation of Commissioner Romulo of the approved provision, we cannot allow foreign military facilities or any foreign enclave within the national territory.

MR. OPLE. Thank you for that clarification.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. As I see it, in the provision that we intend to put in the Transitory Provisions, we are allowing under the terms of a treaty the renegotiation of the RP-US agreement on foreign military bases. In the event that our President, who is given the option to renegotiate the US military bases, will not accept or will not take that option of renewing the military bases treaty with the United States, it will appear in our Constitution that there will be no more foreign military bases to be accepted in the Philippines. That is my interpretation of our provision to be placed in the Transitory Provisions, and the interpretation of Commissioner Aquino on our future relations with other states, where we may sign a treaty concerning collective security, is correct and is based on national sovereignty, territorial integrity, national interest and the right to self-determination.

Thank you, Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Padilla is recognized.

MR. PADILLA. The proposal, as substitute for Section 4, has the phrase "CONSISTENT WITH CONSIDERATIONS SOLELY OF NATIONAL INTEREST."

MR. GASCON. Mr. Presiding Officer, the word "SOLELY" has been deleted.

MR. PADILLA. Can we not just simplify this by saying "CONSISTENT WITH THE NATIONAL INTEREST"?

MR. DE CASTRO. Correct, we accept.

MR. TINGSON. We accept that.

THE PRESIDING OFFICER (Mr. Maambong). Before Commissioner Padilla proceeds, Commissioner Monsod has a pending suggestion – that for the benefit of the whole body, Commissioner Azcuna should be made to explain the concept here. But before Commissioner Azcuna does so, the Chair would like to be cleared now on the formulation. Is Commissioner Monsod listening?

MR. MONSOD. Yes.

THE PRESIDING OFFICER (Mr. Maambong). The Chair has this formulation: "THE PHILIPPINES SHALL, CONSISTENT WITH NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY." Is that the correct formulation?

MR. MONSOD. Mr. Presiding Officer, I believe the amendment of Commissioner Padilla is: "CONSISTENT WITH THE NATIONAL INTEREST."

THE PRESIDING OFFICER (Mr. Maambong). All right. So, it will read: "THE PHILIPPINES SHALL, CONSISTENT WITH THE NATIONAL INTEREST, PURSUE A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

With the indulgence of Commissioner Padilla, may the Chair now call on Commissioner Azcuna to add something to what we already said, probably in a form of a definitive statement, before the other Members can comment so that we can proceed with this section.

MR. AZCUNA. Yes, Mr. Presiding Officer.

In my sponsorship speech, I pointed out that this is a policy, albeit a basic policy because it is stated in the Declaration of Principles and State Policies in the Constitution. Consequently, what we are seeking here is primarily a statement of an orientation, a basic direction in the Constitution, that as a matter of policy, we are against nuclear weapons in our territory. As practiced by other states, that means prohibition not only of possessing, controlling and manufacturing nuclear weapons, but also of nuclear tests in our territory, as well as the use of our territory as a dumping ground for radioactive wastes. This is embraced in the policy against nuclear weapons in one's territory. As practised both in Latin America, under the Treaty of Tlatelolco, as well as by the South Pacific countries that endorsed the Treaty of Rarotonga, passage of ships, whether nuclear-powered or nuclear-arms-bearing, is left to the determination of every state on a case-to-case basis. It is not per se a violation of a nuclear weapons free zone to allow a ship that is nuclear-powered or bearing nuclear weapons to pass or enter one's territory. However, it has to be done in the light of a policy.

There is a policy against the presence of nuclear weapons and, therefore, the exceptions to that policy would have to be strictly construed or justified. What we are saying with the formulation now is that it can be justified only on the basis or on the crucible of the national interest. If it is consistent with the national interest, then really there is the possibility of deviating from that policy but the policy is there. The basic direction is there. There can be deviations now and then because we said that this is not a 100 percent rule; this is not absolute. But deviations must be justified on the basis and the crucible or test of national interest.

THE PRESIDING OFFICER (Mr. Maambong). Thank you.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Before the Chair recognizes anybody else, the Chair would like to state the parliamentary situation.

We are now in the consideration of the amendment by substitution to Section 4. I would suppose that the concept has been discussed thoroughly, and if the proponent will allow, could we now go to the consideration of the amendment by substitution? Is that right?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Davide is recognized.

MR. DAVIDE. May I propose a very simple amendment.

THE PRESIDING OFFICER (Mr. Maambong). Please proceed.

MR. DAVIDE. The first is to delete the word "SHALL" after "PHILIPPINES" and to substitute "PURSUE" with "PURSUES," and before that, add the words "ADOPTS AND." So, the entire proposal will read: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. We feel it is an improvement, so we accept it.

MR. AZCUNA. We accept.

MR. VILLACORTA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The proposed amendment of Commissioner Davide which has been accepted will now read: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

Commissioner Villacorta is recognized.

MR. VILLACORTA. Mr. Presiding Officer, I just would like more clarification from Commissioner Azcuna, if he will yield to further questions.

MR. AZCUNA. Gladly, Mr. Presiding Officer.

MR. VILLACORTA. When Commissioner Azcuna was speaking about the policy of banning nuclear-capable and nuclear-bearing ships, it was not very clear to many of us here just exactly what the provision, if approved, would entail. Would the general policy be against or in favor of the passage of these ships?

MR. AZCUNA. The policy would be against.

MR. VILLACORTA. Against the passage?

MR. AZCUNA. Yes.

MR. VILLACORTA. And entry into the Philippine territory, not only of nuclear-weapons bearing ships but also ships that have nuclear capability or are nuclear-capable. They may not possess nuclear weapons but they are capable of possessing and using nuclear weapons. Is that right, Mr. Presiding Officer?

MR. AZCUNA. If they are merely nuclear-capable but they are not carrying nuclear weapons, they are not barred, as in Japan where the Japanese require U.S. ships to leave first their nuclear weapons elsewhere before entering Japanese waters. That is allowed in the practice, so we would not ban that. What we are saying is, we are banning the ships carrying weapons from entering our territory and, therefore, what they have to do is deposit the weapons elsewhere before entering our territory. Every ship is capable of carrying a nuclear weapon, even a tugboat.

MR. VILLACORTA. Mr. Presiding Officer, I beg to disagree. Not every ship is capable of bearing nuclear weapons. And it is not just a matter of bearing it; it is a matter of having the necessary safeguards and technology to bear these weapons because, for example, the passenger ships would not have that capability of . . .

MR. AZCUNA. Yes. Even a tugboat can really carry a nuclear weapon, if one will read some literature on this. And so, if we ban the ship simply because it is capable of carrying nuclear weapons, no ship will probably be able to enter our territory.

MR. VILLACORTA. This is one of the controversies in Japan with respect to American ships entering the territory of Japan. The Japanese government is in a fix in terms of handling the situation because it was not anticipated by the Japanese government. The Japanese government has a standing policy – although it is not constitutional but it is an executive policy – which follows the three nonnuclear principles: no possession, no entry, and no use of nuclear weapons. But many military analysts fear that a lot of nuclear-capable American ships enter Japanese territory and somehow, if I may use or coin another phrase, through the use of military necromancy or maneuvers, the ships are able to transfer nuclear weapons from one ship to another and the Japanese government is unable to do anything about it. The government of New Zealand is more categorical in banning nuclear-capable ships.

So why cannot the committee in accepting the Monsod amendment put that in the interpretation and contemplation of that amendment? Nuclear-capable ships and nuclear-capable planes should certainly be banned from entry.

MR. AZCUNA. Yes. As we explained, the matter of passage of ships carrying weapons is enforced on a case-to-case basis although the policy is there – that is, we are against it. If nuclear-capable ships, respecting our policy, leave their weapons in Guam and come to Philippine waters, asking our permission to enter, we believe that such ships having respected our policy should not be barred under that policy. Precisely, it shows recognition of our policy that they have left their weapons elsewhere. If they use subterfuge or they enter under the guise of not carrying weapons but in fact are carrying them, then that is something else. That would be covered by the ban. But if there is a sincere compliance with the policy of not bringing nuclear weapons into our territory and, although it is capable of doing so, but respecting our policy, it did not do so, then we should appreciate that consideration.

MR. VILLACORTA. Just two more questions, Mr. Presiding Officer.

Why would nuclear-capable ships enter Philippine territory in the first place?

MR. AZCUNA. Without carrying nuclear weapons? There are many reasons: they could be in distress; they could be coming in for repairs. There are many reasons why a ship enters a port.

MR. VILLACORTA. Has the committee looked into the technology of this? Would nuclear-capable ships be able to dump nuclear wastes into Philippine waters?

The Commissioner might want me to repeat my question.

MR. AZCUNA. Yes, please.

MR. VILLACORTA. Would nuclear-capable vessels be capable of dumping nuclear wastes into Philippine waters?

MR. AZCUNA. Yes, they are capable of dumping nuclear wastes. Again, I imagine even an ordinary ship capable of dumping nuclear wastes. These nuclear wastes are put in barrels marked with radioactive markers and dumped into the sea; sometimes, freight ships are used to do this.

MR. VILLACORTA. In other words, allowing nuclear-capable ships to enter Philippine territory increases the chances of nuclear-waste dumping into our territory. Am I right, Mr. Presiding Officer?

MR. AZCUNA. We do not want to fall into the policy of *ab posse ad esse*, Mr. Presiding Officer, that simply because something is possible, therefore, it will happen. Although everything is possible, we are not prohibiting the possibility; we are prohibiting the actuality.

MR. VILLACORTA. Anything is possible but certain circumstances increase the possibility. Am I right, Mr. Presiding Officer?

MR. AZCUNA. Yes. However, what are prohibited are not the possibilities, even the degrees thereof, but the actual occurrences or the actual dumpings. The policy is against these, not the entry of ships capable of dumping, but do not do so.

MR. VILLACORTA. Last question. Does the Commissioner think that we have the necessary technology to detect the possession of nuclear weapons by entering ships and planes?

MR. AZCUNA. Yes, Mr. Presiding Officer. It is our feeling that the precise technology, if we do not possess it now, is something we can develop within the next few years. And also, there are other institutions that can help us; there are international institutions that are engaged in this and are willing to help developing countries. For instance, in the South Pacific, as well as in the Latin American treaties, they mentioned the International Atomic Energy Commission which provides technical help and verification. So, there are available means.

MR. VILLACORTA. Assuming that we have the technology or we can borrow technology for detecting nuclear weapons from other countries or international agencies, will the military bases agreement that the majority here would want to continue allow surveillance or ocular inspection to be able to detect the presence of nuclear weapons within the bases, as well as within the ships that are entering the territory of the Philippines?

MR. AZCUNA. Yes, Mr. Presiding Officer, if they agree to a provision that there will be no nuclear weapons in the bases concomitant with such a provision in the verification clause. In fact, this is not new. The Philippine panel in the 1976 negotiations already demanded the absence of nuclear weapons in the US bases, so this is not a new posture. We have already asserted such a demand way back in 1976, and in those negotiations, part of that demand was for a verification procedure.

MR. VILLACORTA. The Commissioner raised two points. First of all, such a demand was made. However, he has not informed us whether or not the demand was accepted.

MR. AZCUNA. It was not, but it can be renewed.

MR. VILLACORTA. So it was not accepted.

MR. AZCUNA. It was not.

MR. VILLACORTA. Secondly, the Commissioner has said that it will depend on whether or not the American authorities will agree to a nonnuclear provision in the military bases agreement. But since there is no such provision and the military bases agreement is valid until 1991, then the Commissioner is saying that the constitutional provision against nuclear weapons, if this is approved, will not be implementable until after 1991, assuming that after 1991 a nonnuclear provision will be accepted.

MR. AZCUNA. What would happen is, if we approve this Constitution carrying the proposed Section 4, stating a policy against nuclear weapons, and then we have also a provision in the Transitory Provisions saying that after 1991 there has to be a new treaty, then we have an interregnum between the approval of the Constitution in 1991. The Gentleman asks, "What happens then? Will the nuclear weapons, if there are any, in these US bases be tolerated or not? "

I would say that we have to take into account the fact that there is a provision for review of the terms of the agreement even before 1991. What the Philippine government can then do is ask for a review of the existing terms in the light of a constitutional policy against nuclear weapons, and ask that even before 1991, the demand made in 1976 should be pressed again. That same demand that no nuclear weapons be stationed in these bases can be made this time with the additional reinforcement of the constitutional policy as mandated.

MR. VILLACORTA. What happens if the Americans do not agree, whether we are talking of 1988 or 1991?

MR. AZCUNA. Yes, prior to 1991.

MR. VILLACORTA. Prior to 1991 or in 1991.

MR. AZCUNA. I believe a review is due in 1988.

MR. VILLACORTA. But the assumption is that the Americans will agree. Suppose they will refuse to accept that demand, what will happen? Will this constitutional provision be an empty provision?

MR. AZCUNA. No. The policy will still be there. It admits of exceptions, as we said; then it will just be an exception because in that particular case, we have treaty commitments.

MR. VILLACORTA. In other words, the implementation of this constitutional provision is subject really to its acceptance by the American authorities and its incorporation in the present military bases agreement, or the future military bases agreement, assuming that its extension is part of the renegotiation.

MR. AZCUNA. No, Mr. Presiding Officer. What we are saying is, we have existing agreements and we are not violating these existing agreements, whether we like them or not. We want to honor them. So, we have a new policy. This is something like what the Gentleman said: *rebus sic stantibus* – change of circumstances.

When these treaties were entered into, there was yet no policy against nuclear weapons; however, within the lifetime of the treaty, a policy against nuclear weapons emerges. We can therefore go to them and say, "Look, there is a basic change in the situation; we have a constitutionally mandated policy against nuclear weapons and, therefore, we want to align these treaty provisions now with this new policy." What happens if they do not agree? We have many options. One, we can go to the World Court and sue them by saying that the *rebus sic stantibus* doctrine applies, or we can say, "We treat this as an exception to the policy." The policy is there but it cannot be 100 percent. We have to be pragmatic. So, there are many choices left, but we cannot presume that they will not agree.

MR. VILLACORTA. Is the United States one of those nations that signed this agreement recognizing the compulsory jurisdiction of the International Court of Justice?

MR. AZCUNA. Yes, and the United States also signed the protocol to the Treaty of Tlatelolco, together with the Soviet Union.

MR. VILLACORTA. Knowing the composition of the International Court of Justice and the precedence of cases decided by it, what are the chances of a Third World country that is weak and small like the Philippines, vis-a-vis the United States?

MR. AZCUNA. Nicaragua has just won a case against the United States, Mr. Presiding Officer.

MR. VILLACORTA. Which case is this?

MR. AZCUNA. The case against the placing of mines in the Nicaraguan harbor, and the United States lost.

MR. VILLACORTA. That was a case of mines. This particular case is a clear incidence of blatant violation of international law. We are talking about a case in which the Philippines would want to unilaterally abrogate or withdraw from an international treaty because of a constitutional provision that was approved. I do not think the Honorable Azcuna is listening to my question, Mr. Presiding Officer, and, therefore, would be unable to answer.

THE PRESIDING OFFICER (Mr. Maambong). I think Commissioner Azcuna is listening to the question.

MR. AZCUNA. I am sorry; I was listening.

MR. VILLACORTA. My question is: If a case would be brought to the ICJ by the Philippines involving an issue in which the United States would not want to incorporate a nonnuclear provision in a renegotiated military bases agreement, what are the chances of the ICJ judging in favor of the Philippines, because precedence in the ICJ shows that the International Court always gives precedence to the principle of *pacta sunt servanda* over the principle of *rebus sic stantibus?*

MR. AZCUNA. In international law, the doctrine of precedence does not apply.

MR. VILLACORTA. I know, but we are talking about the actual cases decided and the actual record of the ICJ. The point that I am driving at, Mr. Presiding Officer, is that, as far as the trend of decisions in the ICJ is concerned, we shall be at the losing end and the fact that we still have to elevate to the International Court of Justice a question of whether a constitutional provision, our own Constitution, has to be implemented in our own territory does not speak very well of the kind of sovereignty that we have.

MR. NOLLEDO. Point of information, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nolledo is recognized on a point of information.

MR. NOLLEDO. I think that question could be more intelligently answered if – correct me if I am wrong – Commissioner Azcuna were a professor of public international law. Under the charter of the International Court of Justice, before a case is taken cognizance by the International Court of Justice, both parties must agree to submit to its jurisdiction. Moreover, both parties must also agree that anyone who loses must abide by the decision of the International Court of Justice. So, if the United States government, in the question of Commissioner Villacorta, will not agree to submit the question to the International Court of Justice, it would be very difficult to bring the case before this international court. And even if the United States government agrees to submit to the jurisdiction of the International Court of Justice but does not agree to abide by its decision, then it would be meaningless to present the case to the International Court of Justice.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Thank you very much, Commissioner Nolledo.

Is Commissioner Villacorta through?

MR. VILLACORTA. I would just like to hear the full answer of Commissioner Azcuna.

THE PRESIDING OFFICER (Mr. Maambong). Yes, go ahead, Commissioner Azcuna.

MR. AZCUNA. What we are saying is that, let us not presume that the United States will not agree. As I pointed out in my sponsorship speech, Spain has agreed to a provision that no nuclear weapon shall be stationed in Spanish soil. Secondly, if they do not agree, we have peaceful, legal means of pressing our point – one of this is through the International Court of Justice. I believe we are both signatories to the optional jurisdiction clause of the World Court and, therefore, there is no need to bother whether or not the World Court has jurisdiction over both parties. They are both signatories to the jurisdiction of the World Court.

The only question left is, what are the chances that the World Court will sustain us, considering that we are a developing country? I just mentioned the fact that a developing country recently won against the United States in the World Court. Secondly, the Gentleman said that the track record of the World Court is that they decide in favor of *pacta sunt servanda* as against *rebus sic stantibus*. It is because *rebus sic stantibus* is the exception to the rule; *pacta sunt servanda* is the rule. The rule is that treaties should be honored. As an exception, if there is sudden basic change in the situation, then we can ask that the treaty obligation be lifted because of that. There have been cases where the World Court sustained *rebus sic stantibus*. So our chances should be judged in the light of the fact that we are asking for an exception from the rule. The rule in international law and international relations is *pacta sunt servanda* and, therefore, we have to justify the exception. That does not mean we do not have a good chance.

There is the need to invoke our Constitution in the World Court because in the international forum, just because a provision in one's constitution is against a treaty obligation, he cannot use that necessarily as a defense against fulfilling a treaty obligation. In an international court, the local laws, including one's own constitution, are not sufficient reasons for reneging on an international obligation. That is different if we do it in our own courts. If the litigation is in the Supreme Court of the Philippines, then the Supreme Court of the Philippines has to put the Philippine Constitution on top of everything else. But the International Court of Justice is not bound by the Philippine Constitution. It will take that into account.

MR. VILLACORTA. Precisely. The Constitution is part of our municipal law. Am I right?

MR. AZCUNA. Yes.

MR. VILLACORTA. And the Gentleman has just said that the International Court usually gives secondary importance to the municipal law, and more importance to our treaty obligations.

MR. AZCUNA. I did not say secondary importance. What are to be applied in international law are treaties and international customs. That is the rule applicable in international relations.

MR. VILLACORTA. In other words, Commissioner Azcuna agrees with me that we do not have a good chance should such a litigation . . .

MR. AZCUNA. I do not necessarily mean that because, first, I think we have a good chance of convincing the United States not to station nuclear weapons here. If they agreed in Spain, why will they not agree here? Besides, they have many other bases in this region; these are not their only bases. They have bases in Japan and in Guam. So, they may agree. Let us not presume that they will not agree. Secondly, if they do not, I am sure there are possibilities of negotiations, as well as possibilities of World Court action.

MR. VILLACORTA. Just to briefly reply to that, the United States is fighting and will always be fighting tooth and nail to keep its bases here.

MR. AZCUNA. But we are talking of nuclear weapons in the bases.

MR. VILLACORTA. Of what use are these bases which are the biggest outside U.S. territory if they do not have nuclear weapons? But I do not want to prolong this interpellation. Just for purposes of record, am I correct in summarizing the intention of the committee that if this constitutional provision banning nuclear weapons were to be approved, first, the Philippine government would demand from the United States the right to have or to undertake ocular inspection of the military and naval bases, as well as of all ships and other vessels that come into Philippine territory; second, aside from demanding or insisting on this right, the Philippine government would also demand that the non-nuclear provision, as well as the monitoring of nuclear weapons within the bases and of American planes and vessels entering Philippine territory, will be incorporated in the renegotiated military bases agreement, assuming that it is, if any?

MR. AZCUNA. These are details we can leave to the President and to the foreign relations-conducting bodies of our country.

MR. VILLACORTA. I do not think such a fundamental question should be left to the President and the government. We would like to know if these two points are the contemplations of the committee, because we have to decide intelligently whether we should vote or . . .

MR. AZCUNA. We will leave it open. It is within their powers to do so, but we do not want to dictate to them the precise way of conducting foreign relations and implementing the policy.

MR. VILLACORTA. This is not just the style of foreign relations that we are talking about. We are talking about two basic issues: first, the demand that the Philippine government should have the right to inspect military bases.

MR. AZCUNA. That is implementation of the policy.

MR. VILLACORTA. And in spite of the contemplation of the committee, as well as the proponents, this will be the way it will be implemented. Is that right?

MR. AZCUNA. This is one of the ways by which it will be implemented. We do not want to tell the President, "You have to do this way, rather than that," because we are not implementors of the policies.

MR. VILLACORTA. But what is the use of a constitutional provision banning nuclear weapons if we shall not insist in effect?

MR. AZCUNA. Definitely, it is within their powers to take that as a way of implementing the policy. What we are saying is, we are not mandating them to one particular way of implementing this policy.

MR. VILLACORTA. But it is one of the ways that we are mandating.

MR. AZCUNA. Definitely.

MR. VILLACORTA. Thank you.

MR. BENNAGEN. Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. May I ask that Commissioner Bennagen be recognized?

THE PRESIDING OFFICER (Mr. Maambong). There are several Gentlemen on the floor, but I saw that Commissioner Bennagen has been standing there for almost 45 minutes already.

Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

I would like to propose an amendment to the accepted amendment of Commissioner Davide by adding after the word "interest" the phrase "GOAL OF GLOBAL PEACE AND HUMAN SURVIVAL" so that the formulation will read: "The Philippines, consistent with the national interest, THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL, adopts and pursues a policy of freedom from nuclear weapons in its territory."

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. Mr. Presiding Officer, inasmuch as it is almost lunch time, we would like to have this amendment and perhaps we can think it over, then at two-thirty this afternoon, we shall resume.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Monsod is recognized.

MR. MONSOD. I believe that as a proponent of this, together with about 36 or 38 others, we should also be consulted on this one, even if it has been accepted by the committee. It was our interpretation that the national interest would include our pursuit of world peace because that is in our national interest and the question of human survival is also in our national interest.

I was just wondering whether it is still necessary to do that, because then we would be tempted to make a complete enumeration of what are in the national interest. So, maybe we can discuss this but I just wanted to say that this formulation was very difficult to get at because there were many people with different ideas. And so, I would appeal to the committee not to play around with it too much.

THE PRESIDING OFFICER (Mr. Maambong). The Chair finds the suggestion of Commissioner Monsod well taken, but that would be entirely an internal arrangement between the committee and the proponents.

Before the Floor Leader asks for suspension, the Chair would like to ask the members to please submit their committee amendments to this formulation so that we can go faster this afternoon. We just like to clear the deck by calling back Commissioner Bennagen.

Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

I make a plea for the inclusion of the proposed amendment because the way I sense it, the discussion has so far limited the significance of nuclear weapons to simply national and regional considerations.

THE PRESIDING OFFICER (Mr. Maambong). Yes, there was already a statement of the chairman that they will entertain the amendment, but the Chair would like to entertain a motion to suspend right now because it is already 12:35 p.m. Could the Gentleman suspend consideration of the proposed amendment this afternoon so that we will not starve?

MR. BENNAGEN. Yes.

THE PRESIDING OFFICER (Mr. Maambong). Will the Floor Leader please restate the motion?

MR. BENNAGEN. I understand, of course, that I will be given the opportunity to explain the motion.

THE PRESIDING OFFICER (Mr. Maambong). Yes.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

SUSPENSION OF SESSION

MR. RAMA. I move that we suspend the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Maambong). The session is suspended.

It was 12:36 p.m.

RESUMPTION OF SESSION

At 2:59 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

May we know from the Floor Leader what is the parliamentary situation?

MR. RAMA. Mr. Presiding Officer, we are in the period of amendments. The proponent at the windup of the session this morning was Commissioner Bennagen. So, may I ask that Commissioner Bennagen be recognized again?

THE PRESIDING OFFICER (Mr. Maambong). The Chair understands that we are on Section 4. There is a proposed amendment by Commissioner Monsod. Will the chairman of the committee indicate if the committee is ready?

MR. TINGSON. Yes, Mr. Presiding Officer. We did meet at lunchtime and the general feeling and opinion of the committee was for the Chair to give due course to the amendment of Commissioner Monsod.

THE PRESIDING OFFICER (Mr. Maambong). If the chairman is ready, could he indicate the present formulation of Section 4 so that Commissioner Bennagen can properly present his amendment thereto?

MR. TINGSON. We would appreciate it if the proponent, Commissioner Monsod himself, will state it.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Let us just put the record straight by putting in the formulation as amended by Commissioner Davide, which amendment, I understand, was accepted by the committee. Is that right?

MR. MONSOD. And also by Commissioner Padilla.

THE PRESIDING OFFICER (Mr. Maambong). Will Commissioner Monsod please restate the formulation.

MR. MONSOD. The restated formulation is: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

THE PRESIDING OFFICER (Mr. Maambong). Thank you, Commissioner Monsod.

Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

My amendment is to be added after the comma (,) after the word "interest" so that the formulation will read as follows: "THE PHILIPPINES, CONSISTENT WITH THE NATIONAL INTEREST, THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

THE PRESIDING OFFICER (Mr. Maambong). Is the proposed amendment to the amendment of Commissioner Monsod's proposal understood by the committee? The Chair would like to know the reaction of the committee.

MR. TINGSON. Mr. Presiding Officer, we did precisely discuss the matter this noon and we are sorry that we cannot accept the amendment of Commissioner Bennagen.

MR. BENNAGEN. May I know the reason?

MR. AZCUNA. The reason is that it is already embraced in the concept of national interest. It is in the national interest to have global peace; survival, of course, is subsumed under the national interest.

MR. BENNAGEN. May I explain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The committee does not accept the amendment. Is Commissioner Bennagen insisting on the amendment?

MR. BENNAGEN. Yes, Mr. Presiding Officer. But before I do that, I want to put it to a vote. Before voting, may I explain?

THE PRESIDING OFFICER (Mr. Maambong). Please proceed.

MR. BENNAGEN. My feeling is that the phrase "national interest" does not necessarily mean that we take in its operational terms the concern for global peace and human survival. The issue of nuclear weapons is necessarily a global issue. We all know that there is a growing concern for nuclear disarmament because we are increasingly becoming aware of the impact of this on global peace and human survival. For instance, one of the noted scientists who have been studying the possible effects of nuclear war in relation to nuclear winter has said, and to put the statement in context, let me read from an article in *Discovery*, a news magazine for science, dated January 1985:

> At an international conference in October 1983 in Washington D.C., (speaking for an American group headed by a certain researcher) it was said that a dark sunblocking cloud might enshroud much of the globe after as little as one percent of the superpower's nuclear armaments were fired. Temperatures could plummet even in summer to below freezing for man. This is called "nuclear winter." The effect of this is called "nuclear winter." And last summer, a subcommittee of the Joint Economic Committee of Congress held hearings on nuclear winter and the National Oceanographic and Atmospheric Administration began planning a major national research effort on nuclear winter. A catastrophe of such proportions has never occurred in human experience, though it may have a precedent. Some scientists think that 65,000,000 years ago, at the end of the Cretaceous Period, dust thrown up by the impact of a large asteroid cooled the earth, then the dinosaurs became extinct. This time it could be man.
>
> If the prophets of nuclear winter are right, a nation that launched a major nuclear attack would be destroying itself even if not a single missile were fired in return and the other nations of the world, neutrals and belligerents alike, would perish as well.
>
> In nuclear winter, the superpowers would finally have their strange slogan doomsday machine – one that would automatically destroy civilization. No fallout shelter could provide ultimate sanctuary: We are real bastards bestowing that illusion.

In effect, I am saying that while the issue of nuclear weapons is of immediate concern to us, it must necessarily partake of a global concern because as the scenarios of a nuclear winter point out, whatever happens in the northern hemisphere even if it does not happen in the southern hemisphere will necessarily affect us. If we put this amendment into the proposed section, it will mandate us as a nation to take a more active role in the global movement toward the attainment of global peace and ultimately human survival.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Thank you, Commissioner Bennagen.

May the Chair now address the committee. Is there any change in the thinking of the committee after the explanation of the amendment of Commissioner Bennagen?

MR. TINGSON. We would rather submit it to the body for further discussion and vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). May we ask the Floor Leader if we are ready to put this matter to a vote?

MR. RAMA. There are no more speakers unless Commissioner Davide wishes to take the floor.

MR. DAVIDE. Mr. Presiding Officer, I would just like to ask some clarifications from the proponent.

THE PRESIDING OFFICER (Mr. Maambong). Is the question of Commissioner Davide on the same proposed amendment of Commissioner Bennagen?

MR. DAVIDE. The same point, so I could intelligently vote.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bennagen may respond if he so desires.

MR. DAVIDE. Thank you, Mr. Presiding Officer.

Yesterday, we adopted the following as a new principle: "THE PHILIPPINES RENOUNCES WAR AS AN INSTRUMENT OF NATIONAL POLICY, ADOPTS THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AS PART OF THE LAW OF THE LAND AND ADHERES TO THE POLICY OF PEACE, EQUALITY, JUSTICE, FREEDOM, COOPERATION AND AMITY WITH ALL NATIONS."

I would like to find out from Commissioner Bennagen if "global peace" is different from the "peace" mentioned in the principle I have just quoted, or is it already included there.

MR. BENNAGEN. Maybe so, in terms of a general statement on peace, meaning the general principle.

MR. DAVIDE. So, it is included in that principle.

MR. BENNAGEN. Yes, but I feel that it is necessary to underscore the connection of nuclear weapons with global peace.

MR. DAVIDE. My only question is, is that included?

MR. BENNAGEN. Yes.

MR. DAVIDE. There is a proposed Section 5 of this Article on Declaration of Principles. It states: "THE STATE VALUES THE DIGNITY OF THE HUMAN PERSON, et cetera." Is human survival not included in the principle of the State to value the dignity of the human person?

MR. BENNAGEN. During the interpellation on this section, the discussion centered mostly on human rights. I am not sure whether it was the contemplation of the committee that this Section 5 also includes human survival as threatened by nuclear war.

MR. DAVIDE. No, because human rights is covered by the second clause which says "guarantees full respect for human rights." The first is: "values the dignity of the human person." It therefore includes human survival. It is even beyond just human survival because it is the dignity of the human person itself. So I would say that while I agree with the proposal of Commissioner Bennagen, I believe that these are already included in the different other principles enunciated in the Declaration of Principles. We should read the entire article or take the context of the entire article and dovetail one with the other.

Thank you.

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani is recognized.

BISHOP BACANI. Would Commissioner Bennagen yield to one question?

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bennagen may respond if he so desires.

MR. BENNAGEN. Yes, Mr. Presiding Officer.

BISHOP BACANI. I am also in sympathy with the thought of what the Gentleman is saying. But on the other hand, I find that it might weaken the thrust of what we were trying to say, because we were trying to emphasize the importance of national interest. That is why in a previous section, we even pointed out that it will be the national interest – considerations of territoriality, sovereignty and independence – which shall be paramount in our foreign relations.

And now, of course, even though that is true, if we keep on adding things like these, they might dilute the strength and the force of what we were trying to say here. Originally, it was consistent solely with the national interest to underline the importance of our national interest; and now it has been put down. I am afraid we are weakening it that way.

MR. BENNAGEN. On the contrary, it strengthens the concern for national interest as part of the global concern for peace and disarmament. As I pointed out and as shown by increasing studies, the impact of nuclear war is indeed of direct global concern; and that it is important always to remember that the concern for national interest in relation to nuclear weapons must necessarily take as its operational context, global peace and human survival.

There is a growing search for a new paradigm, the essence of which is caught in the metaphor "global village" so that we can no longer simply isolate ourselves, particularly within the context of a nuclear war, from the other parts of the globe in search for peace.

BISHOP BACANI. On the other hand, it seems that that is precisely the context within which we assert our national interest.

MR. BENNAGEN. Yes. My view is that it is not clear in the proposed section.

BISHOP BACANI. But as pointed out by Commissioner Davide, the other preceding sections seem to have brought that context in already.

MR. BENNAGEN. I think in everyday life, when an ordinary reader reads this section, he would take that section as internally consistent and will not necessarily look into the other sections for linkages. Since this is of paramount concern, I feel that the concern for global peace and human survival in relation to nuclear weapons should already be self-contained in that section.

BISHOP BACANI. Thank you very much.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. The issue has been amply debated. We are ready to vote on that amendment to the amendment.

THE PRESIDING OFFICER (Mr. Maambong). Does Commissioner Monsod have something to say?

MR. MONSOD. I just wanted to concur with the committee's view that it is not necessary to have that amendment, and I would like to request the Chair or the Floor Leader to define the vote.

MR. RAMA. We will first state the amendment to the amendment so we can proceed to vote.

VOTING

THE PRESIDING OFFICER (Mr. Maambong). In order to aid the committee, probably the Chair can help. The amendment to the amendment introduced by Commissioner Monsod is an insertion by Commissioner Bennagen of the phrase "THE GOALS OF GLOBAL PEACE AND HUMAN SURVIVAL" after the word "interest."

As many as are in favor of the amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

Before the Chair announces the results of the votes, in accordance with parliamentary practice, the Presiding Officer reserves his right to vote after the announcement of the results, and he may so vote if it is necessary to resolve the issue, otherwise the Presiding Officer will not vote.

The results show 9 votes in favor and 18 against; the amendment is lost.

MR. RAMA. Mr. Presiding Officer, I move that we vote on Section 4 as a whole section, as amended.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection to the motion?

MR. GARCIA. Mr. Presiding Officer, clarificatory question.

MR. NOLLEDO. Before we vote on the proposed amendment, I would like to propound important questions to Commissioner Azcuna, the main proponent of the amendment.

THE PRESIDING OFFICER (Mr. Maambong). Is it on the same Section 4?

MR. NOLLEDO. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). But I thought we have already decided the issue.

MR. NOLLEDO. Earlier I reserved with Commissioner Rama my right to interpellate. It seems that that reservation was not recorded.

THE PRESIDING OFFICER (Mr. Maambong). All right then, but the Chair will have to ask the permission of the committee. Is it all right with the committee?

MR. AZCUNA. Yes, we are willing.

MR. RAMA. The reservation of Commissioner Nolledo is recorded.

THE PRESIDING OFFICER (Mr. Maambong). Please proceed.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

I would like to know if this proposal is self-implementing.

MR. AZCUNA. Yes. This is a directive for action and there is no further need of a statute to implement it.

MR. NOLLEDO. But, of course, this does not preclude Congress from providing a law to implement this provision.

MR. AZCUNA. No, it does not. Congress may provide a law to implement it.

MR. NOLLEDO. In the meantime that there is no congressional action on the matter, can the executive department implement this provision by providing a mechanism by which the goal contemplated in the proposal may be attained?

MR. AZCUNA. Yes, it can.

MR. NOLLEDO. I think Commissioner Azcuna stated in his answer to the questions of Commissioner Villacorta that in the event that this provision is approved and the Constitution takes effect, we can ask the United States government to remove any nuclear weapon in the American bases should there be such weapon in said bases. Am I right?

MR. AZCUNA. That is right.

MR. NOLLEDO. I think the Gentleman is aware that even under the so-called RP-US Bases Agreement, we still have territorial jurisdiction over the landholdings covered by the bases.

MR. AZCUNA. Yes, that is recognized.

MR. NOLLEDO. We will recall that a long time ago, the Attorney-General of the United States, Mr. Brownel, made an opinion that these landholdings belong to the United States, but the reason of Mr. Brownel were demolished by Claro M. Recto. And so, the moment this provision is effective, can the Philippine government demand the right of ocular inspection?

MR. AZCUNA. What I said was that there would be a request through channels and within the context of the agreement for a revision because this was already demanded in 1976 but was rejected.

MR. NOLLEDO. Can this be done through diplomatic channels?

MR. AZCUNA. Yes.

MR. NOLLEDO. And other methods which are peaceful in nature under the UN Charter can be resorted to.

MR. AZCUNA. That is right.

MR. NOLLEDO. Mr. Presiding Officer, I asked those questions preparatory to a very important question.

If a foreign vessel is permitted by our government to come to Philippine waters, and the Philippine government is not aware that there are nuclear weapons in that foreign vessel, am I right if I say that the foreign vessel is considered an extension of the territory of the foreign government that owns the vessel?

MR. AZCUNA. If it is a warship, but not if it is a private vessel.

MR. NOLLEDO. The Gentleman is right. Let us take the case of a warship like the Seventh Fleet, which comes to Philippine waters with the consent of the Philippine government. Then later it was discovered that there are nuclear weapons therein. The Philippine government insists that the Seventh Fleet leave for having violated the Philippine Constitution. Can the Seventh Fleet now invoke international law by saying that it is not bound by our constitutional prohibition because the Fleet is an extension of the territory of the United States?

MR. AZCUNA. Under international law, a warship belonging to another State is considered a floating portion of that State. What the local State can do, if it does not want its presence, is to ask the warship to float elsewhere. But the local State cannot acquire jurisdiction over it.

MR. NOLLEDO. Thank you.

THE PRESIDING OFFICER (Mr. Maambong). Thank you.

MR. GARCIA. Mr. Presiding Officer, may I ask the committee a clarificatory question.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Garcia is recognized.

MR. GARCIA. Thank you very much, Mr. Presiding Officer.

My question is related to Section 2 which states:

> The Filipino people commit themselves to peace, equality and freedom. They renounce war as an instrument of national policy . . .

and also in the light of this present section where we maintain our freedom from nuclear weapons. I understand that we therefore also accept the principle of nuclear disarmament as something that we could promote in the region and in the world.

MR. AZCUNA. Yes. As I said in my sponsorship speech, this policy would be a first step towards pursuing a policy of trying to promote disarmament on both sides, not just by one State but by all States possessing nuclear arms. This would enable them to have a way by which they can disarm gradually from region to region, until the whole world, hopefully, will be nuclear-free.

So, if we adopt such a policy for our territory, it is implicit that we should encourage promoting a similar policy in the region and throughout the whole world.

MR. GARCIA. So, in a sense, it truly encompasses the thought that lay behind the proposal of Commissioner Bennagen, which was to work towards global peace, human survival and nuclear disarmament.

MR. AZCUNA. Yes. That is why I said it is subsumed under that.

MR. GARCIA. Thank you very much, Mr. Presiding Officer.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. Last query. In the context of that last interpellation, would a policy of banning nuclear weapons include a ban on, for example, nuclear communication notes, like C3-I or other derivatives that would direct the warheads to their targets?

MR. AZCUNA. Under the treaties which I have mentioned, the means of delivery of nuclear weapons is not included under the term "nuclear devices" or nuclear weapons or parts or devices thereof. Airplanes, for example, or missiles themselves are not considered parts of these prohibited articles, unless they cannot be separated from the nuclear weapons. Those are the terminologies used in nuclear weapons-free zones.

MS. AQUINO. Would that interpretation hold, notwithstanding the reply of the Gentleman to the query of Commissioner Garcia?

MR. AZCUNA. What I meant by nuclear disarmament is the nuclear weapons themselves. Of course, in order to effectively promote that, this is not to say that we should not also try to eliminate or reduce the delivery system. But the nuclear weapons-free zone concept per se applies only to the nuclear weapons and their devices. As I said, because this is a start, we have to start somewhere. We cannot do everything at once. If we succeed in this start, then maybe the next step will be the delivery system. But we have to start somewhere and we should start modestly in order to succeed.

MR. RAMA. Mr. Presiding Officer, it is time to vote on this provision.

THE PRESIDING OFFICER (Mr. Maambong). Before we do so, the Chair would like to appeal to the Members, and the committee as well, that in future considerations of sections, we should terminate all our conceptual discussions before the voting for purposes of orderly procedure. What is happening now is that we are discussing Section 4 which has already been practically approved by the body.

MS. AQUINO. That was the Bennagen amendment.

THE PRESIDING OFFICER (Mr. Maambong). What is the pleasure now of the Floor Leader?

MR. RAMA. I move that we vote on Section 4, as a whole section, as amended.

THE PRESIDING OFFICER (Mr. Maambong). The committee is requested to state for the record the complete Section 4 as amended by Commissioners Monsod and Davide.

MR. TINGSON. Section 4, as amended, reads: "The Philippines, CONSISTENT WITH THE NATIONAL INTEREST, ADOPTS AND PURSUES A POLICY OF FREEDOM FROM NUCLEAR WEAPONS IN ITS TERRITORY."

MR. AZCUNA. This is in substitution of the existing wording under Section 4.

VOTING

THE PRESIDING OFFICER (Mr. Maambong). Shall we now put it to a vote?

As many as are in favor of Section 4, as amended and as restated by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The Chair makes the same reservation of its vote.

The results show 26 votes in favor and none against; Section 4, as amended, is approved.

Commissioner Rama is recognized.

MR. RAMA. Mr. Presiding Officer, I would like to present an amendment on Section 5 to complete the sentence. Section 5 reads: "The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the social, economic and political condition." It does not state whose "social, economic and political condition" it seeks to uplift.

So I would like to insert the word "CITIZEN'S" before the phrase "social, economic and political condition" on line 9. The amended Section 5 would then read: "The State values the dignity of the human person, guarantees full respect for human rights and undertakes to uplift the CITIZEN'S social, economic and political condition."

May I ask if the committee accepts that amendment?

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. We accept the Rama amendment, Mr. Presiding Officer.

MR. RAMA. Thank you.

THE PRESIDING OFFICER (Mr. Maambong). Will the committee clarify that it accepts the amendment of Commissioner Rama to the extent that there will be an insertion on line 9, after the word "the" of the word "CITIZEN'S."

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani is recognized.

BISHOP BACANI. May I give an anterior amendment before we vote on that, if Commissioner Rama will permit.

Instead of saying "The State values the dignity of the human person," I propose to say, "The state values the dignity of EVERY human person." On the second half of the statement, I suggest: "guarantees full respect for human rights AT ANY STAGE OF THIS PERSON'S DEVELOPMENT."

MS. AQUINO. So, how would Section 5 read now?

THE PRESIDING OFFICER (Mr. Maambong). Will the proponent state his amendment one by one.

BISHOP BACANI. "The state values the dignity of EVERY human person, guarantees full respect for human rights AT ANY STAGE OF THIS PERSON'S DEVELOPMENT . . ."

THE PRESIDING OFFICER (Mr. Maambong). I suggest that the committee take this up one by one. Let us take up the word "EVERY" in substitution of the word "the" on line 7 of Section 5. What does the committee say?

BISHOP BACANI. This will not simply be general but will apply to each and every case.

THE PRESIDING OFFICER (Mr. Maambong). Yes. The Chair is now asking the committee.

MS. AQUINO. The committee accepts the insertion of "EVERY" before "human person."

THE PRESIDING OFFICER (Mr. Maambong). Let us go to the second part of the amendment on line 9, after the word "rights."

BISHOP BACANI. Shall we vote on the first amendment that was accepted by the committee?

MR. TINGSON. We already accepted it, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). If the amendment has already been accepted, we can have a voting on this particular line later on, if that is all right with Commissioner Bacani.

BISHOP BACANI. Yes.

THE PRESIDING OFFICER (Mr. Maambong). We shall now proceed with the second part of the proposed amendment. On line 8, after the word "rights," there is the proposal to insert the phrase "AT ANY STAGE OF

THIS PERSON'S DEVELOPMENT." What does the committee say?

MS. AQUINO. Query from the committee: How would we operationalize that kind of a concept?

BISHOP BACANI. The law will define a person to make sure that at each stage these rights will be respected. For example, just for something more definite, the question of euthanasia will later be resolved by such a thing as this.

MS. AQUINO. Mr. Presiding Officer, the committee believes that without going into such diversions, that is already fully covered by the draft as presented by the committee, and we therefore regret that we cannot accept the proposal of Commissioner Bacani.

THE PRESIDING OFFICER (Mr. Maambong). The committee does not accept that second amendment?

MS. AQUINO. No, Mr. Presiding Officer, we cannot accept the amendment.

BISHOP BACANI. May I suggest, therefore, Mr. Presiding Officer, that we vote on that first amendment and then may I suggest that we vote on the other.

THE PRESIDING OFFICER (Mr. Maambong). Yes, the suggestion is well-taken, but before that, I would like to know if there are any other proponents for this section aside from Commissioner Davide.

MR. RAMA. Commissioners Monsod and Davide have amendments to Section 5.

MR. MONSOD. No, I will just defer to Commissioner Nieva because I think we have the same question.

THE PRESIDING OFFICER (Mr. Maambong). If it is all right with Commissioner Nieva, Commissioner Bacani and Commissioner Davide, can the Chair now suspend the session for a few minutes so that all of them can converge before the committee and probably iron out these various amendments?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The session is suspended.

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:39 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, the proponents of the amendment to Section 5, as well as the committee, have agreed that Section 5 should be devoted solely to human rights, human dignity and should not be cluttered with other rights in order to stress the value and the need of human rights. I ask that Commissioner Aquino be recognized to state the provision as agreed upon.

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani is recognized.

BISHOP BACANI. I agreed with the committee to withdraw my amendment on condition that I would get a response to a question which I would like to pose now.

THE PRESIDING OFFICER (Mr. Maambong). Is Commissioner Bacani withdrawing his amendment?

BISHOP BACANI. Yes, the second one, but depending on the answer to this question.

We say that the State guarantees full respect for human rights. Does this mean, for the record, full respect for human rights at any stage of this person's development, from the time he becomes a person to the time he leaves this earth?

MS. AQUINO. Yes.

BISHOP BACANI. Thank you very much and I withdraw my amendment.

THE PRESIDING OFFICER (Mr. Maambong). May I address the committee? This new formulation which we are about to hear has been brought about after conference of the various proponents; namely, Commissioners Davide, Bacani, Monsod and Nieva. Is that the correct understanding of the Chair?

MR. TINGSON. That is correct, Mr. Presiding Officer, and we did propose that among ourselves during our lunchtime deliberation.

THE PRESIDING OFFICER (Mr. Maambong). Will the committee now state the formulation of Section 5?

MR. TINGSON. The formulation is: "The State values the dignity of EVERY human person AND guarantees full respect for human rights."

THE PRESIDING OFFICER (Mr. Maambong). Is that it?

MR. RAMA. Mr. Presiding Officer, I ask that we take a vote on that simple provision.

VOTING

THE PRESIDING OFFICER (Mr. Maambong). We will now put it to a vote.

As many as are in favor of Section 5, as reformulated, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The Chair makes the same reservation of its vote.

The results show 28 votes in favor and none against; Section 5, as amended, is approved.

MR. RAMA. Mr. Presiding Officer, I should like to amend Section 6 which states that the prime duty of the government is to serve and protect the people. I would like to amend this to read: "The prime duty of the government is to serve, protect and FREE the people FROM MASS POVERTY." I should like to believe that this Section 6 was inspired by a resolution which I filed, Resolution No. 302, pointing out and calling attention to the fact that there exists in the 1935 and 1973 Constitutions an anachronism, a very simplistic and mistaken provision which states:

> The defense of the State is a prime duty of the Government and the people, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service.

I called attention to the fact that this is one of the provisions giving exaggerated importance to the defense of the State and which has a twisted idea of what is the primary duty of the citizen. I made a research on this provision existing in the 1973 and 1935 Constitutions and I found out that it was lifted from the Spanish Republican Government Constitution. There is no other constitution that contains this provision. As a matter of fact, I have studied about 86 constitutions and none of these constitutions – although we have some provisions for military service – considered it the prime duty of the government to defend the State. Some merely stated that there is sometimes a moral duty of the citizen to defend the State and, therefore, to be pressed into military service.

It is a very unique provision because it has remained unexamined for half a century since 1935. I thought it to be obvious that in a democracy, the first duty of the government is to serve the people, and given the nation's oldest problem of mass poverty which is the oldest, most brutalizing, most dehumanizing problem of this country, it should be the prime duty of the government to address this problem.

I was thinking that this should be included in this Section 6. It has made mention of mass poverty because this is the problem that has brutalized and dehumanized the Filipinos for centuries. I say that this provision in the 1973 and 1935 Constitutions fractures the most basic of democratic tenets, which is, the State and the government exist for the people, and not the people for them.

The Spanish Republican Government at least had a reason to insist on its order of priority – that the first responsibility of the government and the people is to shoulder arm and defend the State. At that time, making war was the favorite sport in the western world and, worse for the Spaniards, their colonies all over the world were being coveted and invaded by other world powers. Thus, they had to stress the principle that it was the primary obligation of the government, home and colonial government and the people in them, to defend the State and their colonies through compulsory military or civil service.

In carelessly adopting this theory in our constitutions, we embraced the anachronism that adds insult to injury. The sounder assessment of where lies the primary responsibility of the government should take into account what the government is for, what is the worst problem of the nation that needs priority attention. Since time immemorial, the oldest, most enduring and brutalizing problem of the country has been mass poverty, the subhuman living conditions of the Filipino people, and except for brief periods, the denial of the people of their basic freedoms. Alongside this abiding mass poverty, all sufferings of the Filipinos, including human rights atrocities, fall into insignificance.

The first and most urgent responsibility of the government in the face of this lurid reality is to defend the fundamental rights of the people to a decent level of living and to their basic freedom. To provide the people, so to speak, with both rights and freedom so that they may live in dignity is the most necessary duty of the government worthy of its name. To enunciate that its prime duty is to defend the State and thus compel every citizen to be a soldier is to make the building of a larger armed forces as the government's overriding obligation. In that sense, it gives the military a primordial position in the political hierarchy, a role wider and more important than a democratic constitution would allow it.

The lopsided view of the primary duty of the citizen has its dangers. Mr. Marcos and many dictators, particularly in Spain and Spanish territories, took villainous advantage of such declared constitutional principle. To justify their military regimes, Mr. Marcos and the military juntas in South America invoked the constitutional precept that the first duty of the government is to defend the State and beef up the military. The trouble is, dictators, including Mr. Marcos, confuse themselves with the State. Under martial law, that constitutional declaration was used for the arrogation of absolute powers by Mr. Marcos with communist threat and attendant civil disorder used as a bugaboo to regiment the citizenry.

A refinement of that principle was the bloating of the national defense budget which postponed the economic redemption of our people, and the writing of the National Service Law that made it mandatory for all students and youth to render military service. In effect, this constitutional provision enabled Mr. Marcos to make the Philippines a colony of its own government through the use of his armed forces.

In the contemporary setting, the principle that the government and the people have an obligation to defend the State should be consigned to a lower rating in the order of priorities. In fact, there is no absolute need to define such duty in the Constitution for self-defense is already part of the universal law of self-preservation, understood as inherent in any government or entity. Even animals understand this universal law of self-preservation, although unwritten, and instinctively and automatically exercise such right when the situation calls for it.

So, may I therefore request that the committee accept this amendment which says: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE, PROTECT AND FREE THE PEOPLE FROM MASS POVERTY."

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Tingson is recognized.

MR. TINGSON. In deference to our hardworking Floor Leader who has also given us a very moving rationale for his amendment, we would like to accept this amendment. However, we would like our Floor Leader to note that his amendment goes better with Section 7 than with Section 6. Mr. Presiding Officer, Section 6 speaks of the collective duty of the people and the government to come to each other's aid in times of war or emergency; whereas, Section 7 speaks of the duty, of the prime concern of the State for promotion and establishment of a sociopolitical and economic system; we speak there of security for the people, benefits of full employment, high standard of living.

We will be very glad to accept the amendment of the Floor Leader. Please put it in Section 7.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Padilla is recognized.

MR. PADILLA. I agree with the proposition that the State exists for the individual and not the individual for the State. But I regret that I cannot agree with our Floor Leader in including as the duty of government or of the State to save our people from mass poverty. That is an ideal. But it will run contrary to our principle of private free enterprise for agricultural productivity, for industrial development, and other progressive methods of producing wealth for our people. In other words, it is an ideal for all our people not to remain poor. But it is not the duty of the State or of the government to save our people from, say, poverty. That must be the free private economic efforts of the people, rather than a duty of the State.

With regard to the second sentence, "The people and the government shall defend the State . . .," I was going to suggest to the committee that the sentence should read as follows: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

I am also advocating the deletion of the phrase "with due regard to objections of conscience" on lines 13 and 14. I hope the committee will consider the merits of my observations.

THE PRESIDING OFFICER (Mr. Maambong). Thank you.

May the Chair inquire from the committee how many proponents of amendments are there.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). There is a pending query of the Chair to the committee as to how many more will bring up and present their amendments.

MR. TINGSON. Mr. Presiding Officer, Commissioner Davide has also an amendment here.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). So we have Commissioners Padilla, Davide, Rama and Monsod.

The Chair declares a suspension so that the proponents can approach the committee and resolve their amendments.

It was 3:56 p.m.

RESUMPTION OF SESSION

At 4:05 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

May the Chair know from the committee if there is already an approved formulation, together with the contribution of the others?

MR. RAMA. Mr. Presiding Officer, I withdraw my amendment because it will be inserted in Section 7.

May I ask that Commissioner Padilla be recognized.

THE PRESIDING OFFICER (Mr. Maambong). The amendment of Commissioner Rama is hereby withdrawn.

Commissioner Padilla is recognized.

MR. PADILLA. I suggest that the second sentence should read as follows: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

I also propose the elimination of the phrase "with due regard to objections of conscience."

THE PRESIDING OFFICER (Mr. Maambong). Before the committee reacts, the Chair would like to ask the committee if that formulation of Vice-President Padilla is already included in the formulation being worked out by them.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. We will admit the first part of the amendment, which will now read, as amended: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW TO RENDER PERSONAL MILITARY OR CIVIL SERVICE." But on the deletion of the phrase "with due regard to objections of conscience," we would rather submit it to the body for a vote.

MR. PADILLA. I have no objection to that, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Could the committee please read the formulation from the first sentence up to the last? Then, we will start from there.

MS. AQUINO. Section 6, as amended, would now read: "The prime duty of the government is to serve and protect the people. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED BY LAW WITH DUE REGARD TO OBJECTIONS OF CONSCIENCE, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong). The Chair suggests that we start with that formulation.

Is that all right with Commissioner Padilla?

MR. PADILLA. That is all right, Mr. Presiding Officer, with the suggestion that afterwards, we vote on the deletion of the phrase "with due regard to objections of conscience."

THE PRESIDING OFFICER (Mr. Maambong). May the Chair ask the honorable Vice-President if he is agreeable to the second sentence formulation, except the phrase "with due regard to objections of conscience"?

MR. PADILLA. Yes, because that is exactly my proposal.

THE PRESIDING OFFICER (Mr. Maambong). The Chair recognizes Commissioner de Castro.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

I agree with the new formulation as read by the committee, but I object, like Commissioner Padilla, to the phrase "with due regard to objections of conscience."

Mr. Presiding Officer, we are here talking of the defense of the State. If the defense of the State shall fail, all others in our Constitution will be of no use. There will be no use for the Preamble, the legislative, the judiciary and everything therein, if we fail in the defense of the State. That is why I would like to have that phrase "with due regard to objections of conscience" deleted so that every citizen shall have that prime duty to defend his State, to defend his dignity, to defend his person, to defend his honor.

If we will allow that, anybody who does not like to go and fight for the State can say, "That is against my conscience." What then will happen to the defense of our country? What then will happen to this whole Constitution?

Mr. Presiding Officer, I move for the deletion of the phrase "with due regard to objections of conscience." After all, if a man right from his birth really cannot even kill a fly, the processing officer or the armed forces will understand this. He may be assigned to other positions in the armed forces which will not involve combat. But even if he is assigned as a kitchen police or as a supply officer which is noncombatant, still the possibility in war is that he will fight because when his command post or his headquarters are raided by the enemy, whether he is a kitchen police, a supply sergeant or a supply officer, perforce he will have to take up arms and defend at least his position.

So I move that the phrase "with due regard to objections of conscience" be deleted. I join Commissioner Padilla on this.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro has the same problem as Vice-President Padilla.

MR. DE CASTRO. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). In due time, it will be put to a vote. In the meantime, I understand the proponent of this phrase "with due regard to objections of conscience" is Commissioner Garcia. So with the indulgence of Commissioner Rigos who has been standing there for a long time, shall we call on Commissioner Garcia first?

MR. GARCIA. Thank you very much, Mr. Presiding Officer.

Very briefly, I would like to summarize the arguments which our committee has proposed – that it is important to retain the phrase "with due regard to objections of conscience." First of all, there are many ways of defending one's country. It is not only by taking up arms that one can defend one's country. By helping the wounded and the sick and by providing many other services, one can also defend one's country. Secondly, we are precisely formulating the phrase "with due regard." This is not the only factor which must be considered, but it must be regarded. When one refuses to bear arms because of conscientious objection or religious belief, this must be considered with due regard and should not be the only factor. Thirdly, I think this has been explained very well by Commissioner Azcuna when he said that it is precisely direct combat duty and it is not prohibiting one from helping out in state services. Fourthly, and this is my other point, these will be exceptions which have to be verified on a case-to-case basis. This will not be a general rule laid down. And lastly, if we have an army of people who, in their conscience, refuse to serve with arms, we will have a very ineffective army.

Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. Commissioner Regalado will speak on the same subject.

THE PRESIDING OFFICER (Mr. Maambong). We will call on Commissioner Rigos later. Commissioner Regalado is recognized.

MR. REGALADO. Mr. Presiding Officer, it seems that the bone of contention here is with respect to the phrase "with due regard to objections of conscience." In the first place, even from the standpoint of syntax there is a little error here, because it says, "with due regard to objections of conscience, to render personal military or civil service." There may be some conscientious objectors to military service, but I cannot conceive of how "objections of conscience" can be raised with respect to civil service which would thereby be affected in the present position of this phrase because it appears to be a modifier of both.

I was wondering, in line with what was followed in the 1935 Constitution where the phenomenon of conscientious objectors was not yet in the concept of military service, whether we can draw a happy compromise here by deleting the phrase "with due regard to objections of conscience" and replacing it with the phrase: "UNDER CONDITIONS PROVIDED BY LAW." So the second sentence will read: "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required, UNDER CONDITIONS PROVIDED BY LAW, to render personal military or civil service."

In other words, we do not preempt Congress from providing for various situations like age, nature of the duty and duration of military service. That actually also took place under the 1935 Constitution. Pursuant to the constitutional provision that the defense of the State is the prime duty of the government and in the performance of this duty, all citizens may be required by law to render military or civil service, we passed Commonwealth Act No. 1, the National Defense Act. That was the implementing mechanism for that provision in the 1935 Constitution. I think we can also place this here, with the same purpose, by adding the phrase "UNDER CONDITIONS PROVIDED BY LAW" which may also copy precisely the provisions of the National Defense Act or expand it a little. Or, Congress, in its collective wisdom, may also consider the possibility of considering the issue of conscientious objectors, how to determine the basis of conscientious objections, not only on religious grounds but also on ethical or moral principles – how to weed out the bogus objections from the genuine convictions. In other words, we give Congress that little flexibility as the 1935 Constitution also did resulting in Commonwealth Act No. 1. I am hoping that thereby the objections of the committee and the purposes of Commissioners Padilla and de Castro may be laid to rest to await the ultimate determination by Congress of this particular situation.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Rigos is recognized.

REV. RIGOS. Mr. Presiding Officer, my question will become academic if the Chair will entertain the Regalado statement as an amendment to the amendment.

THE PRESIDING OFFICER (Mr. Maambong). We have a parliamentary problem here, Commissioner Rigos, because Commissioner Regalado never proposed an amendment, not that I heard.

MR. REGALADO. No, Mr. Presiding Officer. I already made in advance my statement as to what I intend to insert. Of course, in parliamentary practice, a simple motion to delete, as was done by Commissioner Padilla, takes precedence over a motion to insert. But I made up my position already so that in the event the motion to delete is granted, I am hoping that the committee and the Commission will now consider my amendment to insert that phrase.

THE PRESIDING OFFICER (Mr. Maambong). I hope that is clearly understood by the committee.

REV. RIGOS. In that case, Mr. Presiding Officer, may I ask the committee: Just in case the Commissioner decides to delete the phrase "with due regard to objections of conscience," is it not possible that the law itself, in requiring the citizens to defend the State, give due regard to the objections of conscience?

MS. AQUINO. Yes. In fact, jurisprudence is clear on the matter. It is well-established that we give due regard to conscientious objections in military conscription.

REV. RIGOS. So that even if the committee deletes this phrase "with due regard to objections of conscience," the law or Congress can still put that back?

MS. AQUINO. The committee's intention is to make that explicit in this provision, Mr. Presiding Officer.

REV. RIGOS. I thank the Commissioner.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized on the same point.

MR. DE CASTRO. I consulted Commissioner Padilla and we agree to the insertion of "UNDER CONDITIONS PROVIDED BY LAW" which should be at the end of the second sentence: "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required, UNDER CONDITIONS PROVIDED BY LAW, to render personal military or civil service." We admit the insertion by Commissioner Regalado of the phrase "UNDER CONDITIONS PROVIDED BY LAW," Mr. Presiding Officer. So the only point of disagreement is on the phrase "with due regard to objections of conscience" which can be put to the floor for voting.

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani is recognized.

BISHOP BACANI. May I just ask the committee. When it speaks of "PERSONAL MILITARY SERVICE," does it necessarily speak of combatant service?

MR. TINGSON. Those are noncombatant services.

BISHOP BACANI. In other words, there can be noncombatant military service?

MR. TINGSON. Yes.

BISHOP BACANI. Let me just explain, Mr. Presiding Officer, why I support the retention of this phrase. There can be cases where people really believe that their country is engaged in an unjust war of aggression. In that case, which will perhaps more commonly occur than simple objection based on religious belief, then there should be a provision in our Constitution making allowance for that.

Thank you, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer, just one remark to the Honorable Bacani.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. We are speaking here of the defense of the State. We are not talking here of an aggressive war or an act of aggression.

BISHOP BACANI. Thank you very much. I did not notice that.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Guingona is recognized.

MR. GUINGONA. This is a very minor amendment but since I mentioned it during my interpellation, I would like to suggest on the last line, line 14, page 2 that the word "civil" be changed to "CIVIC" in order not to confuse this with the civil service as used in the Article on the Civil Service Commission.

THE PRESIDING OFFICER (Mr. Maambong). The Chair asks the committee to comment on this minor amendment – change of "civil" to "CIVIC."

MR. TINGSON. We accept the amendment.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. I am a member of the committee. May I ask a question to the proponent of the amendment who wishes to change "civil" to "CIVIC."

THE PRESIDING OFFICER (Mr. Maambong). Yes, that is the proposed amendment as accepted by the committee. Does Commissioner de Castro have any objection?

MR. DE CASTRO. I object because there is a lot of difference between "civil service" and "civic service." The Honorable Guingona mentioned the word "civil" for "civil service" as used in the Article on the Civil Service Commission. The service of the people in the government is not the meaning of this "civil service."

When we talk of "civil service" here, we talk of those people putting out fires. In the course of war, there can be fires caused by bombs. The term refers to those who will pick up the dead and bring them to the rear for care; those who are serving as janitors in the hospitals or in the medical stations of the armed forces; those who are actually not performing the duty of using the gun.

But when we talk of "civic service," I really do not know what he means by that. That is why I would like to ask the proponent what he means by "civic service."

THE PRESIDING OFFICER (Mr. Maambong). With the indulgence of the Gentlemen on the floor, I think the Constitutional Commission Members understand very well the Commissioner's point. So the Chair would like to say that we will put this later to a vote.

MR. GUINGONA. Mr. Presiding Officer, in view of the expression of the sense of the committee by Commissioner de Castro who is a member of the committee, I am withdrawing my proposed amendment.

THE PRESIDING OFFICER (Mr. Maambong). The amendment to change "civil" to "CIVIC" is withdrawn.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Davide is recognized.

MR. DAVIDE. May I propose a compromise to meet all objections and to include all suggestions, which consists merely of two brief sentences: "THE GOVERNMENT EXISTS TO SERVE AND PROTECT THE PEOPLE. IT IS ITS DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong). Did the committee get that?

From the standpoint of the Chair, all the issues have been joined. There have been suggestions, so the Chair suggests a suspension for one or two minutes so that we can reformulate this. In the meantime, will the committee please indicate all those proponents who contributed to the formulation which is now acceptable to the committee?

MS. AQUINO. We have accepted the amendment of Commissioner Padilla on the recasting of the second sentence. But we will have to vote on the deletion of the phrase "with due regard to objections of conscience" as suggested by Commissioners de Castro, Padilla and Regalado.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The Chair suspends the session.

It was 4:27 p.m.

RESUMPTION OF SESSION

At 4:32 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Aquino be recognized to restate the new formulation.

THE PRESIDING OFFICER (Mr. Maambong). Before that, the Chair would like to indicate that there is only one problem here in Section 6 – the amendment of Vice-President Padilla and Commissioner de Castro to delete "with due regard to objections of conscience." With the indulgence of the Floor Leader, perhaps we can resolve this issue first by putting this to a vote, after which other amendments may come in and we can reformulate the whole section, if necessary.

The Chair would like to ask first the chairman of the committee or any member to restate the reformulated Section 6, together with the portion which is sought to be deleted.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. The reformulated Section 6 according to the adoption of the amendment of Commissioner Padilla, without the amendment yet of Commissioner Davide, will read as follows: "The prime duty of the government is to serve and protect the people. The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required by law, with due regard to objections of conscience, to render personal military or civil service."

VOTING

THE PRESIDING OFFICER (Mr. Maambong). That is the reformulated section which is acceptable to the committee.

The Chair should now put to a vote the amendment of Vice-President Padilla, together with that of Commissioner de Castro, to delete the phrase "with due regard to objections of conscience" found on lines 13 to 14, page 2, Section 6.

As many as are in favor of the amendment, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 22 votes in tavor, 5 against and 1 abstention; the amendment to delete is approved.

MR. TINGSON. Mr. Presiding Officer, the committee requests that Commissioner Regalado be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Regalado is recognized.

MR. REGALADO. Mr. Presiding Officer, may I now propose my amendment to insert a comma (,) and the phrase "UNDER CONDITIONS PROVIDED BY LAW" between "required" and "by" so that the second sentence will read: "The government MAY CALL UPON THE PEOPLE TO defend the State and in the fulfillment THEREOF, all citizens may be required, UNDER CONDITIONS PROVIDED BY LAW, to render personal military or civil service."

MR. TINGSON. Mr. Presiding Officer, we accept the amendment.

MS. AQUINO. Mr. Presiding Officer, may we request that Commissioner Davide be recognized for his recasting of the whole section with the approved deletions and insertions.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Davide is recognized.

Before Commissioner Davide proceeds, may the Chair inquire from Commissioner Davide whether or not his formulation will drastically affect the whole structure of Section 6?

MR. DAVIDE. It will not necessarily affect the whole structure but it will harmonize. It is a harmonization within.

THE PRESIDING OFFICER (Mr. Maambong). Anyway, this is the request of the committee. So will Commissioner Davide please state his reformulation.

MR. TINGSON. Mr. Presiding Officer, the reformulated Section 6, with the amendments of Commissioners Davide, Padilla and Regalado, now reads as follows: "THE GOVERNMENTS EXIST TO PROTECT AND SERVE THE PEOPLE. IT IS ITS PRIME DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong). Is that reformulation acceptable to the committee?

MR. TINGSON. Yes, Mr. Presiding Officer. This is a happy compromise and reformulation.

THE PRESIDING OFFICER (Mr. Maambong). From the standpoint of the Chair, I really do not know whether or not the Members got the formulation correctly since it is already a variance of the wordings of Section 6. Mr. Floor Leader, may we now put this to a vote?

MR. RAMA. Mr. Presiding Officer, there are no objections, so I think the body is ready to vote.

MR. TINGSON. Mr. Presiding Officer, does the Chair want us to read it again?

THE PRESIDING OFFICER (Mr. Maambong). That would be fine.

MR. TINGSON. "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE. IT IS ITS PRIME DUTY . . ."

MR. RAMA. No, please take out the word "prime" because that is precisely what I have been objecting to.

MR. TINGSON. Let me continue: "IT IS ITS DUTY TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. The proponent of this reformulation is Commissioner Davide and he accepted my suggestion of putting the defense of the State as the prime duty of government.

MR. DAVIDE. I will offer a compromise – "IT IS A PRIME DUTY" not "THE PRIME DUTY."

MR. DE CASTRO. I say that the prime duty of government is the defense of the State, otherwise the whole gamut of the Constitution will be lost. All these matters – the duty to protect the people, to make the people economically viable, to lift their standard of living – will be out if the prime duty to defend the State will not be there. That is my reason for putting the word "prime," Mr. Presiding Officer.

MR. DAVIDE. Mr. Presiding Officer, we also had several provisions, like "highest priority," which is also a duty of the State. So I am proposing a very beautiful and happy compromise. Instead of saying "THE PRIME

DUTY," we only say, "IT IS A PRIME DUTY OF THE STATE."

MR. DE CASTRO. The same with me. I do not like to forget the fact that the prime duty of government is the defense of the State.

Thank you, Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The honorable Vice-President is recognized.

MR. PADILLA. I believe that the first sentence of Section 6, which stresses the duty of government to serve and protect the people, should stay because that is the primary purpose of government – to serve the people. So I prefer to keep Section 6 as already accepted by the committee and in a way approved by the body with the deletion of the phrase "with due regard to objections of conscience." In my opinion, Mr. Presiding Officer, the idea of service to and protection of the people is important as was originally drafted by the committee. In return, the government may call upon the people to defend the State and require citizens to render personal military or civil service. We have no objection in saying "UNDER CONDITIONS PROVIDED BY LAW."

THE PRESIDING OFFICER (Mr. Maambong). Mr. Vice-President, in the reformulation, the first sentence states: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE." Is the Commissioner agreeable to that?

MR. PADILLA. I was precisely stressing the prior importance of service to the people.

MS. AQUINO. So the Commissioner is agreeable to that reformulation.

THE PRESIDING OFFICER (Mr. Maambong). What the Chair is indicating is that the Vice-President's concern is reflected in the reformulation: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE."

MR. PADILLA. I may have no objection if it says: "TO SERVE AND PROTECT THE PEOPLE," not "TO PROTECT AND SERVE THE PEOPLE."

MR. DE CASTRO. So it is the reverse: "TO SERVE AND PROTECT."

MR. AZCUNA. So service first.

THE PRESIDING OFFICER (Mr. Maambong). All right. On the floor now is the reformulation accepted by the committee. There is an amendment by Vice-President Padilla. What does the committee say?

MR. TINGSON. We accept, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. Will the Honorable Padilla accept a very small insertion to "THE GOVERNMENT EXISTS"?

MR. PADILLA. That is not my suggestion. That is the suggestion of Commissioner Davide. I prefer the retention of the first sentence as originally formulated in the committee report.

MR. DE CASTRO. Can we say: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT ITS PEOPLE"?

MR. DAVIDE. Yes, Mr. Presiding Officer.

MR. DE CASTRO. I thank Commissioner Davide.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. RAMA. May I suggest, Mr. Presiding Officer, that we vote first on the first sentence.

THE PRESIDING OFFICER (Mr. Maambong). Yes, that is exactly what we are trying to do, Mr. Floor Leader.

The suggestion of the honorable Vice-President is to return to the original committee formulation of the first sentence of Section 6 which reads: "The prime duty of the government is to serve and protect the people." What does the committee say?

MR. TINGSON. Let us vote on that, Mr. Presiding Officer.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino is recognized.

MS. AQUINO. May I suggest that the voting be on whether one adopts alternative 1 or alternative 2. Alternative 1 is the original committee formula which reads: "The prime duty of the government is to serve and protect the people." Alternative 2 is the Davide amendment: "THE GOVERNMENT EXISTS TO PROTECT AND SERVE THE PEOPLE."

THE PRESIDING OFFICER (Mr. Maambong). With due respect to the committee, that would be very difficult for the Chair. The Chair has to present one formulation. It cannot present two alternative formulations.

MR. TINGSON. But, Mr. Presiding Officer, Commissioner Davide may want to accept that amendment.

MR. DAVIDE. Mr. Presiding Officer, for the sake of unity, I will withdraw my proposal.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment. That needs clarification. When Commissioner Davide says "withdraw my proposal," is he withdrawing the first sentence and the second sentence as well?

MR. DAVIDE. Only the first sentence, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). What would that be as far as the committee is concerned? Are we reverting to the first sentence?

MR. TINGSON. Yes, Mr. Presiding Officer.

So the whole thing, Mr. Presiding Officer, will now read as follows: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. IT IS ITS DUTY TO DEFEND THE STATE AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

THE PRESIDING OFFICER (Mr. Maambong). All right. Just a very minor query to the committee. Regarding the word "MAY BE," is it two words or one word? The committee's formulation is one word. The Chair thinks it should be two words.

MR. TINGSON. Two words, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). So two words.

Mr. Floor Leader, are we ready to put this to a vote?

MR. RAMA. Yes, Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The honorable Vice-President is recognized.

MR. PADILLA. If we retain the first sentence of the committee report, the second sentence as proposed by Commissioner Davide does not seem to be correct. There is no more harmonization. I believe the second sentence, as amended and approved, has a better harmony.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The Chair declares a suspension of the session.

It was 4:48 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, we now have a formulation agreed upon by everybody.

May I ask that Commissioner Aquino read the formulation.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Aquino of the committee is recognized.

MS. AQUINO. Mr. Presiding Officer, Section 6, in view of the Padilla amendment, now reads: "THE PRIME DUTY OF THE GOVERNMENT IS TO SERVE AND PROTECT THE PEOPLE. THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

MR. DE CASTRO. Mr. Presiding Officer, may I introduce a very minor amendment to the phrase "MAY CALL UPON THE PEOPLE." Add the word "ALL" between the words "the" and "people," so it will now read: "THE GOVERNMENT MAY CALL UPON ALL THE PEOPLE." This is already the defense of the State. All the people – young or old, men or women – may be called to the defense of the State.

MR. RAMA. What about the lame, the deformed, the blind and the minors? If we call all the people, it will include everybody – the lame, the blind, the disabled.

MR. DE CASTRO. Yes, anybody.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MS. AQUINO. The committee believes that the sense of Commissioner de Castro is already covered by line 12, when the word "CITIZENS" is qualified by the phrase "ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW."

MR. DE CASTRO. All right. I did not get that. I am sorry. So it refers to all the people, whether they are as old as the honorable Chief Justice or myself.

MR. RAMA. We are now ready to vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Will the committee read again the second sentence so that the body can properly appraise it before it will be submitted to a vote?

MS. AQUINO. It reads: "THE GOVERNMENT MAY CALL UPON THE PEOPLE TO DEFEND THE STATE, AND IN THE FULFILLMENT THEREOF, ALL CITIZENS MAY BE REQUIRED, UNDER CONDITIONS PROVIDED BY LAW, TO RENDER PERSONAL MILITARY OR CIVIL SERVICE."

MR. GUINGONA. Mr. Presiding Officer, just a question.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Guingona is recognized.

MR. GUINGONA. In the phrase "CALL UPON THE PEOPLE," does "people" refer to citizens only or to citizens and even resident aliens?

MS. AQUINO. To citizens only.

MR. GUINGONA. I thank the Commissioner.

THE PRESIDING OFFICER (Mr. Maambong). The Chair is now awaiting the Floor Leader to restate his motion.

MR. RAMA. I move that we vote on the provision as read by Commissioner Aquino.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection?

Commissioner Bacani is recognized.

BISHOP BACANI. I have no objection, but I am sure there has to be a stylistic change in that sentence and we may bring this to the attention of the Style Committee.

THE PRESIDING OFFICER (Mr. Maambong). The manifestation is noted. The chairman of the Style Committee will please take note. Will Commissioner Rama please restate his motion?

MR. RAMA. I reiterate my motion that we take a vote on this provision, Section 6.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection? *(Silence)* The Chair hears none; Section 6, as amended, is approved.

MR. GARCIA. Mr. Presiding Officer, I would like to register my abstention for the reason that "DUE REGARD OF CONSCIENCE" was deleted.

THE PRESIDING OFFICER (Mr. Maambong). The Secretary-General will please take note of the abstention of Commissioner Garcia.

MR. NOLLEDO. I also abstain, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Mr. Floor Leader, there are two abstentions, Commissioners Garcia and Nolledo.

MR. RAMA. Mr. Presiding Officer, I have a formulation for Section 7 which has been accepted by the committee. Section 7 reads: "The prime concern of the State is the promotion and establishment of a socio-political and economic system that will ensure the independence of the nation . . ."

The amendment is on line 15 which is to change "prime" to "PRIMARY" because "prime" has already been used in the previous section. On line 17, between "the" and "independence," insert "PROSPERITY AND." I believe that a nation cannot be independent if it is not prosperous. On the same line, delete "aims" and in lieu thereof insert the phrase "TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM MASS POVERTY" and a comma (,). The reason for the insertion of the words "FREE THE PEOPLE FROM MASS POVERTY" is that mass poverty is the oldest, most enduring and most painful problem of the country for centuries. We must address this problem of mass poverty so that we will not be framing a constitution in a vacuum.

THE PRESIDING OFFICER (Mr. Maambong). For this purpose, is the Commissioner deleting the word "aims" after "and" and the word "to" before "secure"?

MR. RAMA. I am deleting those words.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MS. AQUINO. Mr. Presiding Officer, in view of the earlier commitment of the committee, we are accepting the Rama amendment with minor committee amendments, such that the first sentence would read: "IT SHALL BE THE prime concern of the State TO ESTABLISH, PROMOTE, AND MAINTAIN a socio-political and economic system that will ensure the independence AND PROSPERITY of the nation."

The second sentence would now read: "TO THIS END, IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM MASS POVERTY, secure for the people the benefits of full employment, a RISING standard of living, equality in economic opportunities, security in old age, and other basic human rights."

THE PRESIDING OFFICER (Mr. Maambong). What does the proponent say?

MR. RAMA. I accept the amendment.

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Before we put that to a vote, Commissioner Bacani is recognized.

BISHOP BACANI. I do not know whether or not this is the time to make it. I would like to propose an amendment by substitution which reads as follows: "THE PRIMARY CONCERN OF THE STATE IS THE ESTABLISHMENT AND PROMOTION OF A DYNAMIC SOCIAL ORDER THAT WILL PROMOTE THE DIGNITY OF EACH PERSON AND THE COMMON GOOD OF ALL."

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). Before the committee reacts to that, I understand there are other proponents. Probably, the Chair could again suspend the session for one or two minutes so that we can consolidate all these amendments.

The session is suspended.

It was 5:02 p.m.

RESUMPTION OF SESSION

At 5:38 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, we have already a reformulation agreed upon by everybody. May I ask the chairman to read it.

MR. TINGSON. The new formulation of the Bacani-Rama amendments is as follows: "THE PRIME CONCERN OF THE STATE IS TO BUILD AND SUSTAIN A DYNAMIC SOCIAL ORDER THAT WILL FREE THE PEOPLE FROM POVERTY, PROTECT THE DIGNITY OF EVERY PERSON AND ENHANCE THE QUALITY OF LIFE FOR ALL."

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Monsod is recognized.

MR. MONSOD. Can we just replace the word "WILL" with "CAN"?

MR. TINGSON. "THAT CAN FREE THE PEOPLE"– we accept.

THE PRESIDING OFFICER (Mr. Maambong). The amendment has been accepted by the chairman.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Is there any more intervention?

The honorable Vice-President is recognized.

MR. PADILLA. What were the verbs used? "BUILD AND SUSTAIN"?

THE PRESIDING OFFICER (Mr. Maambong). Yes, "BUILD AND SUSTAIN A DYNAMIC SOCIAL ORDER THAN CAN FREE THE PEOPLE FROM POVERTY . . ."

MR. PADILLA. I am afraid that it is very difficult, if not impossible, to build and even sustain. Why do we not just say: "THE CONCERN OF THE STATE IS FOR A SOCIAL ORDER THAT WILL ENDEAVOR TO MAINTAIN THE DIGNITY OF MAN . . . AND ALLEVIATE POVERTY . . ."

MS. ROSARIO BRAID. Mr. Presiding Officer, this is an aspiration and a declaration. So we would like to have a vision.

MR. PADILLA. Yes, the vision is for the so-called "DYNAMIC SOCIAL ORDER." But before that, there are two verbs used: "TO BUILD" and "TO SUSTAIN." Who is going to build and sustain? Is it the State?

MS. ROSARIO BRAID. The State and the people.

MR. PADILLA. And all these should be the effort of private initiative and free enterprise under an atmosphere of freedom, equality, equal opportunity. But I think we might be imposing when we say that the State or the government has the duty, although it mentions the word "CONCERN" which is of a lighter category. We may be giving the impression that the State or the government is the cure-all for all our evils and problems.

MS. ROSARIO BRAID. Mr. Presiding Officer, I do not think that that is the intent. It would make the government a facilitator, the creator of the climate, which will build and sustain a new social order. And this does not preclude the people from working together with the State.

MR. MONSOD. Mr. Presiding Officer.

MR. PADILLA. I think the people must primarily build and sustain, with the least restraints, interference and control by the State. That is why we are always stressing free enterprise. The progress and prosperity that I have been always aiming at is not really the duty of the State. It is rather the result of the efforts, initiative and sacrifices of the people under a regime of justice and freedom.

MS. ROSARIO BRAID. I do not think there is disagreement, Mr. Presiding Officer. It is just that we have to give the responsibility of an orchestrator to one, and that is the State. The State will orchestrate, create the climate and build where private enterprise and people can cooperate.

THE PRESIDING OFFICER (Mr. Maambong). With the indulgence of the Vice-President, Commissioner Monsod is recognized.

MR. MONSOD. I was just wondering whether we could just replace the words "BUILD AND SUSTAIN" with "PROMOTE," so it will read: ". . . STATE SHALL PROMOTE A DYNAMIC SOCIAL ORDER . . ." This suggests that it is not only the State that will do it but that other sectors and elements will be helping along.

MR. TINGSON. In the light of the remarks of the Vice-President, the committee would like to accept that amendment which reads as follows: "THE PRIME CONCERN OF THE STATE IS TO PROMOTE A DYNAMIC ORDER."

Would that be acceptable to the Vice-President?

MR. PADILLA. At least that would be an improvement.

MS. NIEVA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nieva is recognized.

MS. NIEVA. We were discussing the words "SOCIAL ORDER." I know we are allergic to more words, but aside from "DYNAMIC," would it be possible to add "JUST" – "A JUST SOCIAL ORDER"? "DYNAMIC" is different, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. We would like to ask Commissioner Bacani since that was his amendment – "DYNAMIC SOCIAL ORDER."

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bacani is recognized.

BISHOP BACANI. The idea of social order precisely implies justice, balance and harmony.

THE PRESIDING OFFICER (Mr. Maambong). Is the word "JUST" accepted by the committee?

MR. TINGSON. No, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). So it is not accepted by the committee.

MR. TINGSON. Just "DYNAMIC," Mr. Presiding Officer.

MS. NIEVA. Is there no social order that is unjust?

MR. DE LOS REYES. Mr. Presiding Officer, I object to the use of the word "POVERTY."

THE PRESIDING OFFICER (Mr. Maambong). Just a moment, Commissioner de los Reyes, we are still trying to resolve the addition of the word "JUST." Commissioner Bacani is about to respond.

BISHOP BACANI. If it is not just, it is not yet a social order.

THE PRESIDING OFFICER (Mr. Maambong). Is Commissioner Nieva insisting on her amendment?

MS. NIEVA. If it is understood that the "just" aspect is very much emphasized, then I will not insist, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The amendment is considered withdrawn then.

The Floor Leader is recognized.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de Castro is recognized.

MR. DE CASTRO. I have a very minor observation here. On Section 6, we say "THE PRIME DUTY"; on Section 7, we say "THE PRIME CONCERN." I do not know what Section 8 will come up with.

I think there is a little rhythm of the use of "PRIME" in the two sections. How about taking away that word and say "THE CONCERN OF THE STATE," so as not to let the two "primes," the two "premiers," go together?

THE PRESIDING OFFICER (Mr. Maambong). There is a proposed amendment by Commissioner de Castro to delete the word "PRIME." What does the committee say?

MR. TINGSON. We accept, Mr. Presiding Officer.

MR. RAMA. The original formulation was "primary" – it is a little different from "PRIME" in spelling. "The primary concern" was the original formulation.

MR. DE CASTRO. When I asked the honorable Floor Leader what is the difference between "PRIME" and "primary," he told me they are the same. So how about deleting the word "PRIME" and say "THE CONCERN OF THE STATE" for aesthetic purposes?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). What is the response of the committee?

The Chair declares a suspension of the session.

It was 5:48 p.m.

RESUMPTION OF SESSION

At 5:49 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. There is a new formulation. May I ask that Commissioner Aquino or Commissioner Tingson be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Tingson is recognized.

MR. TINGSON. Mr. Presiding Officer, we have additional suggestions from Commissioners Nieva and Rigos. So Section 7 will read as follows: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY, PROTECT THE DIGNITY OF EVERY PERSON AND ENHANCE THE QUALITY OF LIFE FOR ALL."

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Davide is recognized.

MR. DAVIDE. My concern is the repetition of the word "DIGNITY." The preceding section already states: "The State values the dignity of every human person..."

MR. TINGSON. Would the Commissioner like to propose another word?

MR. DAVIDE. It is not a proposal of another word but its deletion because this is included in a preceding section which was a Bacani amendment.

THE PRESIDING OFFICER (Mr. Maambong). What would the Commissioner propose to delete?

MR. DAVIDE. I propose to delete the phrase "protect the dignity of every person" because in the preceding section, we already have the principle that the State shall value the dignity of every human person.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say to the proposed deletion of the phrase "protect the dignity of every person"?

MR. TINGSON. We accept, Mr. Presiding Officer. We end with the phrase "AND ENHANCE THE QUALITY OF LIFE FOR ALL."

THE PRESIDING OFFICER (Mr. Maambong). Will the committee now read the new formulation?

MR. TINGSON. The new formulation will now read: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY AND ENHANCE THE QUALITY OF LIFE FOR ALL."

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The honorable Vice-President is recognized.

MR. PADILLA. I regret to express my opposition to a section or every section starting with "The State shall." I think even the original draft or report of the committee about the concern of the State says "a just socio-political and economic system . . ." I prefer the word "just" to "DYNAMIC." I am already getting antagonistic to every proposal where the section starts with: "The State shall." We have many provisions which start with "The State shall establish and maintain"; "The State shall promote"; "The State shall" and so forth.

So we will be making this Constitution as primarily imposing on the State its duties and obligations. I think we should be careful in not reiterating too much the obligations and duties of the State when we start with the phrase "The State shall."

THE PRESIDING OFFICER (Mr. Maambong). Does the honorable Vice-President have any specific suggestion to aid the committee, instead of using the words "The State shall"?

MR. PADILLA. That will require a little more careful study, Mr. Presiding Officer.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The session is suspended.

It was 5:54 p.m.

RESUMPTION OF SESSION

At 5:55 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

MR. TINGSON. Mr. Presiding Officer, the committee would like to stick to its suggestion that we vote on this proposal now, which has been the formulation arrived at by different Commissioners. May I repeat, Mr. Presiding Officer: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT CAN FREE THE PEOPLE FROM POVERTY AND ENHANCE THE QUALITY OF LIFE FOR ALL."

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. I move for a vote on that provision.

MR. DE LOS REYES. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de los Reyes is recognized.

MR. DE LOS REYES. I regret that I have to object to the amendment, particularly the use of the phrase "THAT CAN FREE THE PEOPLE FROM POVERTY." It sounds like a demagogue to me. Moreover, it is not inspiring to have in the Article on the Declaration of Principles and State Policies the word "POVERTY." I think the original recommendation of the committee is good enough, with some changes. For example, we can say, "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT AIMS TO SECURE FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE," without using the word "POVERTY." I think the words "FULL EMPLOYMENT, RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES," are more elegant than the word "POVERTY" in a declaration of principles.

THE PRESIDING OFFICER (Mr. Maambong). Will Commissioner de los Reyes suggest an alternative to help the committee, aside from the word "POVERTY"?

MR. DE LOS REYES. My suggestion, Mr. Presiding Officer, is to retain substantially the original report of the committee, with some changes as already agreed upon. So my amendment would read as follows: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT SECURES FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE."

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, the word "POVERTY" has to be included because we are in the business of trying to solve the national problems. The number one national problem is poverty. We cannot avoid, if we are to present a solution, to also state the problem. Mr. de los Reyes, of course, does not understand probably this problem because he is quite wealthy. But how can we solve the problem of the nation if we do not define it? The largest, oldest, most enduring and most brutalizing problem of the country is mass poverty. So we have to aim and state the solution; we must define the problem. So I ask that we take a vote on the amendment of Commissioner de los Reyes.

MR. DE LOS REYES. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner de los Reyes is recognized.

MR. DE LOS REYES. In answer to the claim of Commissioner Rama that I am quite wealthy, that is farthest from the truth. People from my province will attest to the fact that I am not wealthy, although I am not poor either. But the point is this: While I understand that we have poverty problem in our country, I do not see any good reason for its inclusion in the Article on the Declaration of Principles which should be an inspiring article in the Constitution. Imagine starting with the word "POVERTY" in the Declaration of Principles! That is my reason, Mr. Presiding Officer.

So I am amenable to a voting on my amendment.

THE PRESIDING OFFICER (Mr. Maambong). Let us clarify the issue. The point of Commissioner de los Reyes is to retain the words "BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE." Is that the correct statement of the issue, Commissioner de los Reyes?

MR. DE LOS REYES. Substantially, yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. Mr. Presiding Officer, to avoid more confusion, we are sorry we cannot accept that. We would like the body to vote on this latest formulation that we presented.

THE PRESIDING OFFICER (Mr. Maambong). Is Commissioner de los Reyes insisting on his amendment?

MR. DE LOS REYES. Yes, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Maambong). We will put it to a vote.

As many as are in favor of restoring the phrase "BENEFITS OF FULL EMPLOYMENT, RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES AND BETTER QUALITY OF LIFE," please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 13 votes in favor, 9 against and 1 abstention; the amendment of Commissioner de los Reyes is approved.

The committee is now asked to reformulate the present formulation to insert the words mentioned by Commissioner de los Reyes.

MR. RAMA. At any rate, the words "to free the people from poverty" are still there.

THE PRESIDING OFFICER (Mr. Maambong). There was no mention of the motion to delete "POVERTY." What was presented before the body was the insertion of certain words. So it is now up to the committee to reformulate all these things.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Monsod is recognized.

MR. MONSOD. I am a little confused because if we have a section that says "free from poverty" and in the next breath it says "promote full employment," that does not sound like a good sequence. I was under the impression that the manifestation of Commissioner de los Reyes was to delete the reference to poverty and say it in a positive manner.

MR. DE LOS REYES. That is correct. That was my intention.

THE PRESIDING OFFICER (Mr. Maambong). That is precisely the reason why the Chair, before the voting, clarified the situation – whether or not the intention of Commissioner de los Reyes was to retain the words mentioned by the Chair, and Commissioner de los Reyes agreed.

MR. DE LOS REYES. That is correct. However, even before that, I already mentioned – and I was arguing on the premise – that it is not good for an Article on the Declaration of Principles to start with the word "POVERTY." That is engaging in hairsplitting technicalities.

THE PRESIDING OFFICER (Mr. Maambong). To resolve this issue, shall we throw it back to the committee so that the formulation will not be in conflict with each other?

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The Chair suspends the session.

It was 6:04 p.m.

RESUMPTION OF SESSION

At 6:08 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, because of the lateness of the hour, I move that we adjourn until tomorrow at nine o'clock in the morning.

THE PRESIDING OFFICER (Mr. Maambong). Before the Chair acts on the motion, is it understood that the committee will sleep on this problem of Section 7 with all the formulations presented? Is the understanding of the Chair correct, Mr. Chairman?

MR. TINGSON. Yes, Mr. Presiding Officer.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Monsod is recognized.

MR. MONSOD. In view of the fact that the dinner of Commissioner Foz is at seven o'clock, maybe after the adjournment, we can sit down with the committee and resolve some of these problems.

ADJOURNMENT OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). Yes. Probably, the committee can take it up.

There is a motion to adjourn. Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until tomorrow at nine o'clock in the morning.

It was 6:09 p.m.

R.C.C. NO. 88

Saturday, September 20, 1986

OPENING OF SESSION

At 9:51 a.m., the Vice-President, the Honorable Ambrosio B. Padilla, opened the session.

THE VICE-PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE VICE-PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE VICE-PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Bernardo M. Villegas.

Everybody remained standing for the Prayer.

PRAYER

MR. VILLEGAS. Almighty God, You sent Your only begotten Son Jesus Christ to bring peace to this world. He is our Prince of Peace. For the past few days, we have been especially remembering the peace that still eludes mankind. Teach us to be the men and women of goodwill to whom peace was promised by the angels who announced the birth of the Redeemer.

We know that to be of goodwill, we must love You with all our heart, with all our strength and with all our mind. You gave us the acid test for loving You above all things. With divine succinctness, You said: "If you love me, keep my commandments." Keeping Your commandments, Lord, requires constant struggle. Peace can be attained only if each of us wages a war against his own greed, sensuality and pride. You have made it clear that the true freedom of man is found in the liberation from the radical slavery of personal sin.

Sometimes we look for scapegoats. We talk about evil structures, about iniquitous institutions, about social sin. But as we look into our inner selves with utmost sincerity, we realize that in the final analysis, evil comes from the heart of man. You said that "out of the heart come evil thoughts, murder, adultery, fornication, theft, false witness, slander and blasphemy." Please remove the scales from our eyes so we can see that only a personal conversion can bring us that peace and joy that You – as a good Father – are eager to give us.

Our task of writing a constitution is not yet over. We entertain no illusion that the rest of the way will be less tortuous. We pray that You continue to illumine our minds and strengthen our will so that, despite the inevitable clash of opinions, we can be the first to set an example for our people in achieving truth, justice, fraternity and love. Above all, let us be exemplary in being at peace with ourselves by waging that spiritual battle against the threefold concupiscence of which St. John spoke: the concupiscence of the flesh, the concupiscence of the eyes and the pride of life. That inner peace will make possible our being at peace with those around us. This we ask You through Your Son Jesus Christ, Our Lord. Amen.

ROLL CALL

THE VICE-PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present*	Nieva	Present
Aquino	Present	Nolledo	Present*
Azcuna	Present*	Ople	Present
Bacani	Present*	Padilla	Present
Bengzon	Present*	Quesada	Present*
Bennagen	Present	Rama	Present
Bernas	Present	Regalado	Absent
Rosario Braid	Present	Reyes de los	Present
Calderon	Present	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present	Rosales	Absent
Davide	Present	Sarmiento	Present*
Foz	Present	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present	Tadeo	Present
Guingona	Present	Tan	Present
Jamir	Present	Tingson	Present
Laurel	Absent	Treñas	Present
Lerum	Present*	Uka	Present
Maambong	Present	Villacorta	Present*
Monsod	Present	Villegas	Present
Muñoz Palma	Present*		

The roll call shows 31 Members responded to the call.

THE VICE-PRESIDENT. The Chair declares the presence of a quorum.

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*Appeared after the roll call

MR. CALDERON. Mr. Vice-President.

THE VICE-PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of yesterday's session.

THE VICE-PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved

APPROVAL OF JOURNAL

MR. CALDERON. Mr. Vice-President, I move that we approve the Journal of yesterday's session.

THE VICE-PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Mr. Vice-President, I move that we proceed to the Reference of Business.

THE VICE-PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Resolution on First Reading and Communications, the Vice-President making the corresponding references:

RESOLUTION

Proposed Resolution No. 546, entitled:

> RESOLUTION URGING THE CONSTITUTIONAL COMMISSION TO AGREE TO CONCLUDE ITS WORK SOONEST BUT IN NO CASE LATER THAN OCTOBER 15, 1986.
>
> Introduced by Honorable Ople, Maambong, Rama, de los Reyes, Jr., Rigos, Bengzon, Jr., Jamir, Padilla, de Castro, Regalado, Colayco, Romulo, Monsod, Tingson, Treñas, Rodrigo, Concepcion, Lerum, Villegas, Uka, Bacani and Guingona.
>
> To the Steering Committee.

COMMUNICATIONS

Communications seeking the inclusion in the Constitution of a provision obliging the State to protect the life of the unborn from the moment of conception, from:

1) Ms. Ma. Intes Bettina D. Lumain of 35 Chicago Tech., University Hills, Malabon, Metro Manila, and seventy-four other students of the University of the Philippines, Diliman, Quezon City.

(Communication No. 932 – Constitutional Commission of 1986)

2) Ms. Carmen G. Diaz de Ventanilla and one hundred seventeen other professors and employees of the University of the Philippines.

(Communication No. 933 – Constitutional Commission of 1986)

3) Ms. Luzviminda A. Bandoy, 345 Pepin St., Sampaloc, Manila, and one hundred ten other students from De Ocampo Memorial College, University of the Philippines, and Maryknoll College.

(Communication No. 934 – Constitutional Commission of 1986)

4) Sister Fidela Ramoso of the Carmelite Monastery at Subic, Zambales, and one hundred twenty-one other concerned citizens with their respective addresses.

(Communication No. 935 – Constitutional Commission of 1986)

5) Ms. Cecilia B. Hizon and five other concerned citizens.

(Communication No. 936 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communications urging the Constitutional Commission to incorporate in the Constitution the provision that the separation of the Church and State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines, from:

1) Rev. Noe B. Talagtag and twenty-six (26) other signatories, Pigcawayan Evangelical Alliance Church, Pigcawayan, Cotabato.

(Communication No. 937 – Constitutional Commission of 1986)

2) Pastor Ponciano G. Undag, Sr. and twenty-three (23) other signatories, Grace Church of Christ, Incl. 91-L Aguadas and Laurel Streets, Ozamiz City.

(Communication No. 938 – Constitutional Commission of 1986)

3) Free Methodist Church
Bangonay, Jabonga
Agusan del Norte

(Communication No. 939 – Constitutional Commission of 1986)

4) Rev. Bartolome Bagni
Pentecostal Bible College
Mabini St., San Fernando, La Union

(Communication No. 940 – Constitutional Commission of 1986)

5) Pastor Joel Dumapit and twenty-two (22) other signatories, Miracle Christian Center, 141-A East Rembo, Fort Bonifacio, Makati, Metro Manila

(Communication No. 941 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communications calling for foreign military bases-free and nuclear-free provisions in the Constitution of the Philippines, from:

1) Mr. Lutgardo Juscales, Jr. and one thousand four hundred ninety-four other signatories, Nationalist Alliance for Justice, Freedom and Democracy (NAJFD), 5 Rosal Street, Cubao, Quezon City

(Communication No. 942 – Constitutional Commission of 1986)

2) Ms. Maria Lisa Dacanay and four thousand six hundred eleven other signatories, Nationalist Alliance for Justice, Freedom and Democracy (NAJFD), 5 Rosal Street, Cubao, Quezon City

(Communication No. 943 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from the *Samahan Taga-Sa-Panahon*, Candelaria, Quezon, requesting the Constitutional Commission to incorporate in the Constitution provisions providing support for the National Elderly Association, the association of senior citizens of our country, just as it had given our youth primary importance in their education.

(Communication No. 944 – Constitutional Commission of 1986)

To the Committee on Social Justice.

Communication signed by seventy (70) Filipino professionals, veterans, businessmen, and residents of Toronto, Ontario, Canada, requesting the Constitutional Commission to incorporate and include in the Constitution provisions synchronizing national and local elections, limiting reelection to the same office to not more than two 4-year consecutive terms.

(Communication No. 945 – Constitutional Commission of 1986).

To the Steering Committee.

Letter from Mr. Jose Mabulay, Jr. and Fr. Nemie Angus, OFM, Justice and Peace Council, 29 Sacrepante Street, Mandaluyong, Metro Manila, submitting a position paper containing a description of the features of the concept of a "mechanism for selective objection," together with its rationale.

(Communication No. 946 – Constitutional Commission of 1986).

To the Committee on Amendments and Transitory Provisions.

Communication from the *Confederacion Nacional de Profesores de Español, Inc.*, signed, respectively, by its President and Secretary, Rosario Valdes-Lamug and Teresa Salazar, urging the Constitutional Commission to include Spanish as one of the official languages of the Philippines.

(Communication No. 947 – Constitutional Commission of 1986).

To the Committee on Human Resources.

Communication from Ms. Sol Rombuena, President, Immaculate Conception Cathedral Parish, Ozamiz City, requesting the Constitutional Commission to include in the Constitution a provision making religion a required subject in the public and private elementary and high schools.

(Communication No. 948 – Constitutional Commission of 1986)

To the Committee on Human Resources.

THE VICE-PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF AMENDMENTS

MR. RAMA. Mr. Vice-President, I move that we take up for consideration this morning the Article on the Declaration of Principles.

THE VICE-PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. May I request the chairman and the members of the Committee on Preamble, National Territory, and Declaration of Principles to please take their seats in front.

THE VICE-PRESIDENT. The chairman and members of the committee will please take their places at the front table.

MR. TINGSON. Mr. Vice-President, could we please call on Commissioner Rustico de los Reyes to state the latest amending formulation that he had when we adjourned yesterday.

THE VICE-PRESIDENT. Commissioner de los Reyes is recognized.

MR. GUINGONA. Mr. Vice-President, I have an inquiry which, I think, would be a prejudicial question.

May I be allowed to ask a clarificatory question of the committee.

THE VICE-PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. I have noted that there are provisions contained in this article which, to my mind, are not verbatim but substantial repetitions of provisions in other articles, such as the Articles on National Economy and Patrimony, Social Justice, and the provisions on education, science and technology and family life.

I was talking with Commissioner Villegas a while ago and he informed me that it was the decision of the committee to state some general concepts in the Declaration of Principles, without prejudice to their being repeated but in more specific forms in the other articles.

I was wondering whether this would also include a repetition of the declarations themselves re the specification of rights. This is to guide the Committee on Sponsorship, one of the exclusive functions of which is to avoid repetitions.

I have no objection; I just wanted to be clarified, Mr. Vice-President.

MR. TINGSON. Mr. Vice-President, Commissioner Aquino would like to respond.

THE VICE-PRESIDENT. Commissioner Aquino of the committee is recognized.

MS. AQUINO. Thank you, Mr. Vice-President.

The committee met about this, and what really happened was that, for example, in the Article on Social Justice the supervening approval and adoption of a paragraph defining social justice, therefore, required the committee to do some recasting of the sections. The same situation would hold, for example, in the section on labor and some of the other provisions in the Declaration of Principles.

So the committee met to recast some of our sections and the basic agreement is that, consistent with the intent of the sections on the Declaration of Principles, the sections here which would have similar provisions in the other articles are intended to provide, as Commissioner Nolledo would say, "the curtain provision," which would be fleshed out in the specific articles we have approved earlier.

MR. GUINGONA. So the committee would not preclude repetitions, at least, for purposes of emphasis.

MS. AQUINO. No, I am sorry, Mr. Vice-President, not repetition, but this will be in the nature of an explicit declaration of principle; not at all in repeating the articles that we have approved before.

MR. GUINGONA. So if there is a repetition in the other articles, then, perhaps, the provisions in the other articles may be deleted.

MS. AQUINO. I think the Gentleman is misunderstanding our manifestation.

The committee position is that the sections in the Article on the Declaration of Principles have been recasted or would remain as they are considering what we have reported already, and depending on what we think is the best thrust and best focus of a section in the Declaration of Prinicples as compared to the specific articles that we have approved before.

MR. GUINGONA. I see. Thank you very much.

MR. MAAMBONG. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. On the same point. I can understand the thinking of the committee, but I would just like to indicate that in the outline which I submitted to the committee, which has been acknowledged by the chairman before, I mentioned in the portion on policies that we have something like 20 policies in the present formulation, and most of the policies I indicated, like sociopolitical and economic system, social justice, labor, social services, indigenous cultural communities, nongovernment and community-based organizations, health and healthy environment, science and technology, education and culture and others, are covered in detail in specific articles. That is why I was suggesting to the committee in the outline which I presented that probably a single sentence will do, or if it could not be done at all, at least to formulate it in a brief manner. Anyway, these policies will be taken up in detail in the main body of the Constitution.

Thank you, Mr. Vice-President.

MS. AQUINO. We have taken that suggestion favorably. In fact, the committee will introduce committee amendments that will streamline the concepts.

MR. MAAMBONG. Thank you very much.

MS. AQUINO. The matter, of course, of rubrication and resequencing has not yet been undertaken by the committee.

THE VICE-PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. Mr. Vice-President, the amendment which this Representation proposes to introduce is a deletion.

THE VICE-PRESIDENT. Has this reference to Section 7?

MR. DE LOS REYES. Yes, Mr. Vice-President. This is to delete the phrase which reads: "that can free the people from mass poverty and enhance the" and to substitute the same with the original proposal of the committee, but only in a more brief and more concise manner and with the inclusion of the word "JUST" as proposed by Commissioner Nieva. So that Section 7 will read as follows: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT SECURES FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, a rising standard of living and better quality of life."

MR. TINGSON. Mr. Vice-President.

THE VICE-PRESIDENT. What is the reaction of the committee?

MR. TINGSON. Mr. Vice-President, this is the formulation that we remember was presented to us yesterday. However, the Floor Leader had an amendment previous to that which included a phrase. He claims that that phrase was never eliminated from the amendment that we did vote upon.

We would like to ask the Floor Leader what the situation is as far as he is concerned.

THE VICE-PRESIDENT. The Floor Leader is recognized.

MR. RAMA. Commissioner de los Reyes presented an amendment to insert some words. There was a little mistake in the Journal and he read the words that we inserted.

On the other hand, he was trying to amend a section that has a formulation already accepted by the committee which included the words, "to free the nation from poverty." So, when the vote was taken, I asked the Presiding Officer to clarify the matter regarding the words I had previously presented and were accepted by the committee as follows: "to free the nation from poverty." The Presiding Officer, however, confirmed my position that those words were not deleted by the insertion of the phrases presented by Commissioner de los Reyes. That was the end of the session.

So, may I now ask the committee to read the formulation as amended by Commissioner de los Reyes.

THE VICE-PRESIDENT. And the Chair has noticed that the committee report had the phrase "ensure the independence and prosperity of the nation." Is the committee deleting that clause?

MS. AQUINO. Mr. Vice-President, when Commissioner de los Reyes reinstated the original, it was not actually an original in the sense that what his motion covered was a composite of the Bacani proposal and the original committee proposal.

In this amendment, he excluded the clause, "prosperity of the nation"; together with the exclusion was the Rama amendment.

So, Mr. Vice-President, may I request Commissioner de los Reyes to read again his proposal on Section 7.

THE VICE-PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. With the permission of the honorable Vice-President and the committee, Section 7 is recommended to read as follows: "THE STATE SHALL PROMOTE A DYNAMIC AND JUST SOCIAL ORDER THAT SECURES FOR THE PEOPLE THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING AND BETTER QUALITY OF LIFE."

THE VICE-PRESIDENT. What is the reaction of the committee?

MR. DAVIDE. Mr. Vice-President.

SUSPENSION OF SESSION

MR. TINGSON. Mr. Vice-President, may we request a suspension of the session so we could get together with the two principal proponents.

THE VICE-PRESIDENT. The session is suspended for a few minutes.

It was 10:15 a.m.

RESUMPTION OF SESSION

At 10:21 a.m., the session was resumed.

THE VICE-PRESIDENT. The session is resumed.

MR. RAMA. Mr. Vice-President.

THE VICE-PRESIDENT. The Floor Leader is recognized.

MR. RAMA. The committee and the proponents of this amendment on Section 7 have come to an agreement and a meeting of the mind on the formulation which Commissioner Aquino will read before voting.

THE VICE-PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Mr. Vice-President, this formulation was culled from the amendments of Commissioners Rama, Bacani, de los Reyes, Padilla, Davide, together with the committee amendments: "IT SHALL BE THE PRIME CONCERN OF THE STATE TO PROMOTE A DYNAMIC SOCIAL ORDER THAT WILL ENSURE THE INDEPENDENCE AND PROSPERITY OF THE

NATION. IT SHALL ENDEAVOR TO FREE THE PEOPLE FROM POVERTY, SECURE FOR THEM THE BENEFITS OF FULL EMPLOYMENT, A RISING STANDARD OF LIVING, EQUALITY IN ECONOMIC OPPORTUNITIES, SECURITY IN OLD AGE AND OTHER BASIC HUMAN RIGHTS."

The committee would welcome comments and reactions to this formulation.

MR. DAVIDE. Mr. Vice-President, may we request the deletion of "SECURITY IN OLD AGE" because there is a proper space for that in social security.

MR. TINGSON. The committee agrees.

MR. SARMIENTO. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Thank you, Mr. Vice-President.

May I be allowed to comment on the proposed amendment. Considering that we have included the words "INDEPENDENCE AND PROSPERITY," would it not be proper to delete "FREE THE PEOPLE FROM POVERTY"? No, I think that was the subject matter of our discussions yesterday because we are constitutionalizing poverty. After all, the words "INDEPENDENCE AND PROSPERITY" would cover the elimination of poverty. Would the honorable Commissioner Tingson be willing to accommodate these observations?

MR. TINGSON. The committee would like to call upon Commissioner Rama to explain further. However, we did accept this originally because the committee looks at the reality of things and state of affairs, and our researches show that the Philippines and Indonesia are about the only two remaining countries in this part of the world that really have mass poverty, and it is possible to solve the situation. But we would like to ask Commissioner Rama to explain further.

THE VICE-PRESIDENT. Commissioner Rama is recognized.

MR. RAMA. The reason we have to include the phrase "FREEDOM FROM POVERTY" is that it is the number one problem in this country for a century now. For a constitution to try to hide that problem because it is embarrassing is not a good reason. As a matter of fact, Rizal had pointed out that one of the unflattering traits of the Filipinos is hiding their problems. That is why Rizal wrote *Noli Me Tangere,* to expose the problem so that we may find the solution to it. How can we write a constitution which professes to solve the problems of the country by hiding the number one problem, which is poverty. There is nothing to be ashamed of in saying that that is a problem and we are trying to solve it. I cannot understand why people are disturbed when we try to identify the number one problem of the country. As a matter of fact, the biggest crime of Mr. Marcos is not imprisoning people nor violating human rights but making everybody poor, because when one inflicts poverty on the people, he inflicts all other evils like prostitution, robbery, thievery, killings, etc., arising out of poverty. The sufferings of the people are tremendous because when they are so poor, they live hell on earth. That is why it is absolutely necessary to identify that problem of poverty in the Declaration of Principles.

MR. SARMIENTO. Mr. Vice-President, may I briefly respond to the observations of Commissioner Rama?

THE VICE-PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. It is true that poverty is a problem, but I would say that it is more of a manifestation of major problems. I would like to cite Pope John Paul II in his speech at the UNESCO where he said that the problems are imperialism and neo-colonialism. These are the more basic problems, and poverty is only a manifestation of these problems.

MR. RAMA. That is a theory, Mr. Vice-President, which is already passe. That is a theory of the leftists. But that is an artful theory – imperialism. How can one directly connect that to poverty? It is poverty whether these people are leftists or not, whether the government is leftist or communistic. Poverty is the problem of the country. The plundering of Mr. Marcos, for instance, which is unparalleled in the world, has worsen this poverty. It is not imperialism. As a matter of fact, it was Mr. Marcos who plundered the country in the last twenty years. So, let us not go into this theoretical, artful argument about imperialism being the problem of the country. People will not understand that in the first place.

MR. SARMIENTO. Mr. Vice-President, just a brief rejoinder to those comments. These are not leftist terms, Mr. Vice-President. These are terms being used by the Vatican II, by Pope John Paul II, by Papal encyclicals, by Mr. Marcos himself, by Claro M. Recto. So, imperialism is not a leftist term; it is a term being used by almost everybody.

I humbly submit, Mr. Vice-President.

MR. MAAMBONG. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Vice-President, Commissioner Rama could correct me if I am wrong but in down-to-earth terms, what I understand is that in this country today there are four problems that we are facing: the problem of poverty, ignorance, disease and injustice, of which the government has always been telling us. I have no quarrel with Commissioner Rama regarding the use of the word "poverty," but by way of suggestion, perhaps, he would accept a substitute word which will also reflect the same meaning, if we just say "freedom from want" because "poverty" seems to be a little bit inelegant in a constitution. Of course, Commissioner Rama has his own reason for being very blunt about it.

MR. RAMA. Mr. Vice-President, we are writing a constitution that would be easily understood by the people. "Freedom from want" – how many of the people would know what is "freedom from want"? But when we say "freedom from poverty," everybody knows that.

Mr. Vice-President, I have said before that this Constitution should not only echo the sentiments and aspirations of the people but also their fear and despair. The people must be able to hear their own voices in the Constitution. And, therefore, we must try to make it simple. What is this fear and despair of the poor all their lives? Does the Vice-President know and understand how it is to be poor all his life? Ignorance is not even the big problem, because once we have made people prosperous, they can conquer ignorance by going to school. Disease is not the main problem because once we are prosperous, we are liberated from poverty. We can feed ourselves and buy medicine. The main problem is poverty.

MR. MAAMBONG. It is only a suggestion anyway, Mr. Vice-President.

Thank you.

MR. MONSOD. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May I suggest the following formulation: "IT SHALL BE THE PRIME CONCERN OF THE STATE TO PROMOTE A SOCIO-POLITICAL AND ECONOMIC SYSTEM THAT WILL ENSURE THE INDEPENDENCE AND PROSPERITY OF THE NATION AND WHICH CAN FREE THE PEOPLE FROM POVERTY THROUGH POLICIES THAT PROMOTE FULL EMPLOYMENT, A RISING STANDARD OF LIVING AND AN IMPROVED QUALITY OF LIFE FOR ALL."

MR. RAMA. I have no problem with that.

MS. AQUINO. May we request a suspension, Mr. Vice-President?

MR. RAMA. We ask that we suspend the session for two mintues.

MR. OPLE. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Thank you.

Will Commissioner Rama entertain a question or two?

MR. RAMA. Gladly.

MR. OPLE. I have been looking forward to an opportunity to support a proposal of Commissioner Rama with genuine conviction. But I would like to put a question to him.

Poverty is, of course, a phenomenon not unique to the Philippines as a developing country. There are pockets of poverty even in the richest nations. If one has been to the Bowery of New York, for example, he could have been confronted with a pocket of poverty no less galling than what we see in Tondo. Would Commissioner Rama agree to that?

MR. RAMA. Correct, Mr. Vice-President, but let us put it in perspective. I am talking here about mass poverty. Pockets of poverty can be found in every nation. And even poverty is no longer unique because all the countries around us have progressed, have conquered poverty, except Indonesia and Bangladesh; and we are catalogued with Bangladesh as the poorest country in Asia. Does the Gentleman not believe that that is the alarming problem that we should face too?

MR. OPLE. Mr. Vice-President, I want to support Commissioner Rama but on accurate historical and sociological terms. The world is divided between the rich and poor and there is a cutoff that divides the rich from the poor. Very roughly, when a country, in present terms and according to present prices, graduates beyond the $3,000 to $4,000 income per capita , provided there is a compliance with certain economic liberalization policies prescribed by the OECD so that there is a standard of liberalization applicable to all the members of the OECD, the club of the rich, then that country is said to have attained the status of a developed nation.

In our part of the world, the Republic of Korea hopes to join the OECD in 1988. That is a formal statement of the Chun Doo Hwan government. Taiwan, if considered an independent State, would qualify for membership in the OECD also by 1988 and, of course, there are the so-called Newly Industrialized Countries, the NICs that would include Hongkong and Singapore. But the rest of developing Asia, including countries not mentioned in the enumeration by Commissioner Rama, are afflicted with mass poverty. They are still a long way off from leaving the ranks of the poor to join the club of the rich in Brussels.

I want Commissioner Rama's assent to the statement that when he speaks of mass poverty as he proposes in this section, he refers to the major feature of a state of economic underdevelopment. This means that the major features of underdevelopment are, as Commissioner Maambong said a while ago, mass poverty, ignorance, disease and injustice. And based on those terms, freedom from mass poverty merely means transcending poverty as a state of underdevelopment, so that this relates dynamically to the statement of aspirations for national development, especially in this Article on National Economy and Patrimony.

If Commissioner Rama agrees to this intent behind the meaning of freedom from poverty, I will be very happy to support him.

MR. RAMA. I do not have any problem with that.

MR. OPLE. Thank you, Mr. Vice-President.

MR. TINGSON. Mr. Vice-President, we have a new formulation here that seems to be acceptable now to all the committee members and, hopefully, to the majority of our fellow Commissioners. The formulation was based on the suggestions of Commissioners Davide, Padilla, Rama, de los Reyes, Monsod and Romulo. May we read it.

THE VICE-PRESIDENT. Please proceed.

MR. TINGSON. "IT SHALL BE THE PRIME CONCERN OF THE STATE TO PROMOTE A DYNAMIC SOCIAL ORDER THAT CAN ENSURE THE PROSPERITY AND INDEPENDENCE OF THE NATION AND FREE THE PEOPLE FROM POVERTY THROUGH POLICIES THAT PROMOTE FULL EMPLOYMENT, A RISING STANDARD OF LIVING AND AN IMPROVED QUALITY OF LIFE FOR ALL."

That, Mr. Vice-President, is the formulation.

REV. RIGOS. Was the word "just" deleted from the term "dynamic and just society"?

MR. TINGSON. We would like Commissioner Monsod to answer that, please.

REV. RIGOS. No, I am asking the committee.

MR. MONSOD. It is up to the committee.

MS. AQUINO. The committee deliberately deleted that with the clear intention of not deleting the intent because there is a consensus that the phrase "dynamic social order" should be necessarily just.

REV. RIGOS. On the other hand, a just social order will be dynamic. But a dynamic social order is not necessarily just.

MS. AQUINO. When we say "order," it means, therefore, that everything should fall into place to be just.

REV. RIGOS. I suggest that we go back to the original formulation approved yesterday which included the word "just" – "dynamic and just society."

MS. AQUINO. The committee is not too sanguine about that. However, the focus of that phrase "dynamic social order" is mobility, upward mobility, the progress-oriented social order.

MR. AZCUNA. Mr. Vice-President, I support Commissioner Aquino because we believe that precisely, the whole thrust of this provision is to secure justice, since justice means to give everyone his due. Therefore, a dynamic social order is designed to secure and achieve justice. So, it would be a tautology to say "a just social order that is designed to secure justice." There is the dynamism which will be used as an agent for achieving justice.

MR. GUINGONA. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Mr. Vice-President.

There are two reformulations that the committee has made immediately preceding the one just read. There was the phrase "security in old age" which was sought to be deleted by Commissioner Davide. It seems that the committee has acceded to that amendment to delete. I would like to express my objection, because as expressed by Commissioner Rosario Braid during the previous interpellation, other areas of concern are included in this Article on Declaration of Principles, such as the youth, women, labor, members of the indigenous cultural communities but no mention is made of the old. There are, of course, already old people among the 55 million populace. But even among those who are not old, a good number of these citizens would become old. I am concerned about them, especially the underprivileged and even those belonging to the middle class because we link this matter of old age with illness. The prohibitive cost of hospitalization these days, including medicines and doctor's fees, would be very much related to this concern for security of old age. Some injection vials cost as much as P300; capsules cost as much as P10 each.

And so, I am objecting to the deletion. Commissioner Davide says that he will introduce this in Section 13, and I have no objection. My only concern is that we might not approve the suggested amendment in Section 13. Therefore, I suggest that we retain this without prejudice to deleting it in case the proposed amendment mentioned by Honorable Davide in connection with security of old age is approved when we come to Section 13.

MR. MAAMBONG. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Can we not solve that issue by getting some sort of commitment from the committee that the provision will be inserted in Section 13? What does the committee say to that?

MR. TINGSON. We will be glad to. The committee is in favor of the sentiments expressed by Commissioner Guingona and we will commit ourselves.

MR. MAAMBONG. Just one more point, Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. There was a concern of Commissioner Rigos about the word "just." I do not know if the committee has already reached a consensus on that.

MR. TINGSON. Mr. Vice-President, I amended the statement a while ago because the committee is really divided on this. May I ask Commissioner Rosario Braid, on behalf of the other committee members, to please explain?

MR. MAAMBONG. Before that, I would just like to indicate for the record that yesterday this issue was somewhat resolved in this body. Page 51 of yesterday's Journal reads:

> In reply to Mrs. Nieva's query on whether there is no social order that is unjust, Mr. Bacani explained that if it is not just, there is no social order to speak of, for which reason Mrs. Nieva desisted from proposing her amendment.

I want this on record so that Commissioner Rigos will also understand that somehow this has been resolved yesterday.

Thank you, Mr. Vice-President.

MS. ROSARIO BRAID. Mr. Vice-President, may I just make a statement on this matter.

THE VICE-PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Yes, we are divided because I quite agree with Commissioner Nieva that there is an unjust social order. This is why in the literature of development, we have such phrases as "a balanced social order," which means that there is an unbalanced social order. We also have such phrases as "transformation of the social order," which means that there is a social order that has to be transformed. Likewise, we have such phrases as "new economic order," which means that there is an economic order that is not positive. In the same way, we have a "new information order," which acknowledges the fact that certain orders are not quite relevant to the needs of a just society.

So I would support the need to include a word such as "just" or "balanced," whatever the Commission would like to entertain.

MR. DE CASTRO. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Mr. Vice-President.

I do not like to add confusion to this section. However, yesterday I took note of the word "prime" in Section 6 where we say the "prime" duty of government. Then we now come to Section 7 which mentions the "prime" concern of the State. I do not know whether we still have to use the word "prime" in Section 8.

I have no vigorous objection to this word "prime," but I wonder what the readers of the Constitution shall say. Baka naman sabihin nilang: "Wala na bang nalalaman ang Constitutional Commission na letra o titik kung hindi 'prime'?" Yesterday, on page 52 of the Journal, Commissioner Rama said the original formulation was "the primary concern," not prime.

Mr. Vice-President, yesterday we voted on the deletion of the word "poverty," with a 13-9 result on motion of Commissioner de los Reyes. I voted in favor of the amendment of Commissioner de los Reyes. If we will put back the word "poverty," what is the meaning of the 13-9 result of our voting yesterday?

Thank you, Mr. Vice-President.

MR. RAMA. Mr. Vice-President, the parliamentary situation is that there is an amendment or a proposal presented by Commissioner Rigos and he insists on his amendment to the amendment, which is the insertion of the word "just." So, we will have to vote on it.

MR. TINGSON. Mr. Vice-President, we would like to have the body vote on that – whether or not to insert the word "just." Is that right, Mr. Floor Leader?

MR. RAMA. Yes, that is the anterior issue.

THE VICE-PRESIDENT. So, the issue is whether the word "just" should be inserted or should remain in the committee formulation. Is the body ready to vote on that issue?

MR. RAMA. Yes, Mr. Vice-President.

VOTING

THE VICE-PRESIDENT. As many as are in favor of retaining the word "just," please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Three Members raised their hand.)*

The results show 24 votes in favor, none against and 3 abstentions; the proposal is approved.

MR. TINGSON. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Mr. Vice-President, we have made a minor reformulation which includes the word "just." May we read it now.

THE VICE-PRESIDENT. Please proceed.

MR. TINGSON. Mr. Vice-President, Section 7, as amended, reads as follows: "THE STATE SHALL PROMOTE A JUST AND DYNAMIC SOCIAL ORDER THAT CAN ENSURE THE PROSPERITY AND INDEPENDENCE OF THE NATION AND FREE THE PEOPLE FROM POVERTY THROUGH POLICIES THAT PROMOTE FULL EMPLOYMENT, A RISING STANDARD OF LIVING AND AN IMPROVED QUALITY OF LIFE FOR ALL."

MR. SUAREZ. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Vice-President.

May I submit an amendment to the amended Section 7, in the light of the acceptance by the Commission on a unanimous vote of the word "just" which is all-embracing and all-encompassing. As the term now stands, it would refer to the establishment of a just and dynamic social order. We submit, Mr. Vice-President, that all of the terms that come after the words "just and dynamic social order" are included in that significant phrase. It is very difficult for Commissioners to decline a constitutional fruit salad like what is being enumerated after the words "social order."

May I formally submit an amendment that we put a period (.) after the words "social order" and then delete all the other phrases after that.

THE VICE-PRESIDENT. Commissioner Rama is recognized.

MR. RAMA. I object to that amendment, Mr. Vice-President, because that was already taken up yesterday, and the provision has been amply debated. May I ask what is the position of the committee so that we can vote on it, if necessary?

THE VICE-PRESIDENT. What does the committee say?

MS. AQUINO. The committee will insist on the formulation that was read by the chairman, with a minor amendment.

MR. RAMA. Does Commissioner Suarez insist on that amendment to the amendment so we can vote on it?

MR. SUAREZ. In all seriousness, I would like to submit that to the committee for appreciation, because I think we really have to put a stop to all these flowery expressions in the Constitution, Mr. Vice-President.

MR. RAMA. May I ask that we vote on that amendment to the amendment, Mr. Vice-President.

MR. SUAREZ. Thank you.

THE VICE-PRESIDENT. Will the committee or Commissioner Suarez restate the proposed amendment which will be voted upon?

MR. SUAREZ. I propose that after the phrase "just and dynamic social order," a period (.) be placed and that we delete the phrases subsequent thereto.

MR. TINGSON. Therefore, the provision will only be: "THE STATE SHALL PROMOTE A JUST AND DYNAMIC SOCIAL ORDER."

MR. SUAREZ. That is right.

THE VICE-PRESIDENT. Is the body ready to vote?

MR. SUAREZ. My proposal is subject to the understanding that all the words after "social order" should be read into the record as forming part of the description of what would constitute "a just and social order" for our government – "for a just and dynamic social order."

Thank you, Mr. Vice-President.

VOTING

THE VICE-PRESIDENT. The Chair now submits the Suarez amendment to a vote.

As many as are in favor of the Suarez amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 6 votes in favor and 20 against; the amendment is lost.

MR. RAMA. Mr. Vice-President, I now move that we take a vote on the whole provision.

MR. OPLE. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. May I know whether the word "can" still stands there because I think that word is unconstitutional. It should be replaced by "SHALL" or "WILL" – "A social order that WILL secure the prosperity and . . ."

MR. TINGSON. Yes.

MR. OPLE. So, may I move that the word "can" be replaced by "WILL" or "SHALL" at the option of the committee.

Thank you, Mr. Vice-President.

THE VICE-PRESIDENT. What does the committee say?

MR. TINGSON. We accept, but we leave it to the Style Committee to use either word.

MR. RAMA. The body is ready to vote, Mr. Vice-President.

THE VICE-PRESIDENT. Is there any objection to the motion to substitute the word "can" with "WILL"?

MR. MAAMBONG. Mr. Vice-President, I have no objection but I suggest that the committee decide between "SHALL" or "WILL."

MR. TINGSON. We will opt for "WILL."

MR. MAAMBONG. Thank you.

THE VICE-PRESIDENT. So, the word "can" is substituted with "WILL."

Is there any objection? *(Silence)* The Chair hears none; the amendment is approved.

MR. RAMA. Mr. Vice-President, we are now ready to vote on the whole amendment of Section 7.

THE VICE-PRESIDENT. Will the committee read Section 7 again?

MR. TINGSON. Section 7 finally will read as follows: "THE STATE SHALL PROMOTE A JUST AND DYNAMIC SOCIAL ORDER THAT WILL SECURE THE PROSPERITY AND INDEPENDENCE OF THE NATION AND FREE THE PEOPLE FROM POVERTY THROUGH POLICIES THAT PROMOTE FULL EMPLOYMENT, A RISING STANDARD OF LIVING AND AN IMPROVED QUALITY OF LIFE FOR ALL."

THE VICE-PRESIDENT. Is the body ready to vote on the reamended and final Section 7?

MR. RAMA. The body is ready to vote, Mr. Vice-President.

MR. TINGSON. Yes, but with just a minor correction. It should read: "AND DYNAMIC SOCIAL ORDER THAT WILL ENSURE THE PROSPERITY AND INDEPENDENCE OF THE NATION." The word is "ENSURE," not "secure."

VOTING

THE VICE-PRESIDENT. As many as are in favor of the version of Section 7 last read, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 28 votes in favor, none against and 2 abstentions; Section 7, as amended, is approved.

MR. RAMA. Mr. Vice-President, I ask that Commissioner Monsod be recognized.

THE VICE-PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Thank you, Mr. Vice-President.

I would like to reserve the right to reconsider Section 4 in order to come within the technicality of our Rules. Today, I found on my desk a proposal of Commissioner Suarez to propose in the Transitory Provisions the establishment of a commission which is inextricably tied up with Section 4. I just wanted to make sure I am within the Rules in case we consider this after 24 hours and also in case there are other sections that may be introduced in the Transitory Provisions or in any other articles that are inextricably bound or dependent on Section 4.

Mr. Vice-President, I also would like to ask for certain clarifications from the committee through Commissioner Azcuna, on the interpretation and intent of Section 4 and on which also a decision will be made—whether I will ask for a reconsideration now or later. That is the reason for the reservation. May I put that on record.

THE VICE-PRESIDENT. Does Commissioner Azcuna want to say something?

MR. AZCUNA. Does the Gentleman wish to interpellate right now?

MR. MONSOD. I just want, first of all, to reserve the right to seek for a reconsideration of Section 4.

MR. AZCUNA. I have no objection to the same.

MS. AQUINO. I just want a clarification, Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Would the reconsideration be contingent on anything, Mr. Vice-President?

MR. MONSOD. That would be contingent on the following matters: First, the disposition of the proposal that was sent by Commissioner Suarez on a proposed commission that would be tied to Section 4; second, any other sections or formulations that may be introduced in the Transitory Provisions or in any other articles, such as the General Provisions, that are tied to or bound with Section 4; and, third, depending on the answers I will get from the committee through Commissioner Azcuna on the intent and interpretation of Section 4 as approved.

MR. SUAREZ. Mr. Vice-President, may we be recognized for further information.

THE VICE-PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Vice-President.

We submitted the proposal to be transferred to the Transitory Provisions, and this is by way of creating an agency or instrumentality, or call it commission, in order to monitor the activities in connection with the implementation of the state policy that has already been declared under Section 4 of the Article on the Declaration of Principles. Section 4, as approved by this Commission and which we are assuming as a fact when we submitted our proposal for the creation of a monitoring agency, must be accepted as having already been approved. That is to say, we have already stated categorically that we want a country that is nuclear weapons-free.

On that assumption, we feel that it may be necessary to set up a sort of monitoring agency in order that we can give a little teeth to this nuclear weapons-free provision now appearing in the Declaration of Principles.

MR. MONSOD. Mr. Vice-President, I do not want to debate on the merits of the proposal of Commissioner Suarez on such a commission at this point. That is the reason I want to reserve, among other reasons, the right to move for the reconsideration of Section 4 within the technicalities of our Rules. I do not even preclude asking for the reconsideration today, if the answers that will be given by the committee are not, I think, reflective of the intent and the spirit with which we filed this motion.

THE VICE-PRESIDENT. Is that a motion or resolution of Commissioner Suarez that was mentioned by Commissioner Monsod?

MR. MONSOD. Mr. Vice-President, it has not yet been filed.

THE VICE-PRESIDENT. Has it not been filed in the Order of Business?

MR. MONSOD. No, Mr. Vice-President. But it was on my desk, and so I assumed that it was going to be filed. I just wanted to make sure that we are within the technicalities of the Rules because it might not be taken up today; it might be taken up after the 24 hours within which we can technically ask for a reconsideration of the section.

THE VICE-PRESIDENT. The Chair rules that we should not consider at this time the reaction of Commissioner Suarez which is not scheduled in the agenda. But the reservation made by Commissioner Monsod is made of record.

MR. MONSOD. Thank you.

May I now proceed to ask the committee my questions on the interpretation and intent of Section 4.

THE VICE-PRESIDENT. I think now would not be the appropriate time. After all, there was a reservation made by the Commissioner and that supposed resolution to be filed is not in the agenda.

MR. MONSOD. Mr. Vice-President, the resolution is only one of the reasons. As I said earlier, I may move for a reconsideration of the approval of Section 4 today, depending on the answer of the committee, through Commissioner Azcuna, to certain questions I will pose.

THE VICE-PRESIDENT. Is the committee or Commissioner Azcuna willing to answer some of the questions Commissioner Monsod wants to propound on Section 4?

MR. AZCUNA. I am willing, Mr. Vice-President.

THE VICE-PRESIDENT. Does the body have any objection to Commissioner Monsod's propounding questions to the committee, particularly to Commissioner Azcuna? *(Silence)* The Chair hears none; Commissioner Monsod may proceed.

MR. MONSOD. I just want to get an answer from the committee in the formulation of Section 4. Is this not an absolute ban on nuclear weapons under any and all circumstances or would this admit of exceptions in the national interest?

MR. AZCUNA. Yes, Mr. Vice-President.

MR. MONSOD. And among the exceptions which the Commissioner has mentioned in the interpellation is a case-to-case basis. Depending on the government, we may allow such weapons. Let me restate that – that depending on the government, we may allow ships that are capable of bearing nuclear weapons to dock in Philippine waters, provided they do not carry nuclear weapons.

MR. AZCUNA. Yes, I said that, Mr. Vice-President.

MR. MONSOD. That is if the government does not opt for the exception?

MR. AZCUNA. The Commissioner is right.

MR. MONSOD. Also, I would like to clarify that this does not, in any way, diminish the options of our government with respect to the approved Transitory Provisions on the bases, because there were interpellations yesterday that tended to suggest that ships or airplanes that are capable would come within the prohibition. What I am saying is that it will not mean an immobilization of such bases should the government agree to a new treaty in accordance with the provision.

MR. AZCUNA. No, Mr. Vice-President. As I said, what it will entail is that the government, in view of this policy, will probably request the review of the existing treaty or take up a position during the negotiation of a new treaty that these bases should be nuclear weapons-free – a position which the Philippine panel had already advanced way back in 1976 but which was rejected by the United States. So it is one of the options that our government may do and it is within this context that the options are there.

MR. MONSOD. In other words, the general rule is that the Philippines adopts and pursues a policy of nuclear weapons-free Philippines, subject to such exceptions as the government may allow in the national interest.

MR. AZCUNA. That is right, Mr. Vice-President. This is a basic policy, and any divergence from that policy while they are possible can only be justified on one test, on the crucible of national interest.

MR. MONSOD. Mr. Vice-President, that is my question for today. I still reserve the right to ask for a reconsideration of the approval of Section 4, if and when there is any more equivocation or if there is any proposal which, in our view, does not reflect this policy.

Thank you, Mr. Vice-President.

THE VICE-PRESIDENT. The reservation is made of record.

MR. DE LOS REYES. Mr. Vice-President, may I be recognized.

THE VICE-PRESIDENT. Commissioner de los Reyes is recognized.

MR. DE LOS REYES. Mr. Vice-President, I am the author of Proposed Resolution No. 216 and it was stated in my original formulation that the Philippines is a nuclear-free country and at no instance shall we allow any foreign country or even us to use our territory as a place for stockpiling nuclear weapons, mobile or stationary. But this was changed and in a spirit of accommodation, I agreed and even signed that compromise proposal which states "national interest." But when I signed that, I have in mind national interest only in case of self-defense. In fact, we did not even state that because in cases of self-defense, we have to take into account the instinct of self-preservation. In criminal law, there must be unlawful aggression, reasonable necessity of the means employed to repel the aggression and there is a lack of sufficient provocation. That is the only instance. I did not agree nor was it my intention that we should allow our country in the future to be a member of the club of countries using nuclear weapons, because I am against the proliferation precisely of nuclear weapons. That is my stand on the matter, Mr. Vice-President.

MR. AZCUNA. I believe that if ever we opt to join the club of nations advocating the use of nuclear weapons, it would be only in the interest of national defense, because we renounce war as an instrument of national policy.

MR. DE CASTRO. Mr. Vice-President.

THE VICE-PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Mr. Vice-President.

Commissioner Azcuna may correct me, if I am wrong. Yesterday when we read this provision and I voted for it, it stated: "The Philippines, consistent with the national interest." I asked the question: "Will the national interest include the defense and security of the State?" And the answer was "Yes." When I asked that, I have in mind the possibility that our President may take the option of allowing another treaty for the retention of the bases. I feel all the time, and I have that in my sponsorship speech on September 12, that the bases are part of the national defense and security of the State. And since the national interest includes, as in the record, national defense and security, there is no question in my mind that there is a possibility that in the defense and security of this nation, consistent with the possible exercise of the option of our President for the retention of the bases, there may be tactical nuclear weapons in the defense of our State in the bases which may be approved in the treaty. That was the reason I asked whether the national interest included national defense and security.

Am I right in my interpretation?

MR. AZCUNA. Mr. Vice-President, the Commissioner is right in saying that the national interest includes national defense and security. He is also correct in saying that it is up to our President in renegotiating a new treaty to determine whether or not it is part of our national interest to allow nuclear weapons to be maintained in such bases. It is not for us to say that it is. We would leave it to the implementors of this policy – basically the President and the Senate – because they have to concur in the treaty and render the judgment. But the judgment will be predicated solely on the crucible of Philippine national interest and no other national interest.

MR. DE CASTRO. I thank the Commissioner. I am very, very glad that he is with me in my interpretation of the meaning of national interest and in my question of including it as part of defense and security of the State.

Thank you, Mr. Vice-President.

MR. RAMA. Mr. Vice-President.

THE VICE-PRESIDENT. The Floor Leader is recognized.

MR. RAMA. May I ask that Commissioner Suarez be recognized.

THE VICE-PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. This is by way of a parliamentary inquiry, Mr. Vice-President.

We heard the honorable Commissioner Monsod make a reservation to file a motion for a reconsideration, depending on the result of his dialogue with the Honorable Azcuna in connection with the approved Section 4 on the Article on the Declaration of Principles. But after the Honorable Monsod made his inquiries – and I do not know whether he was satisfied with the answers or not – he, nevertheless, maintained his reservation. That is fine as far as I am concerned. But the Honorable de los Reyes and the Honorable de Castro stood up also to make interpellations by way of interpretations of the Honorable Azcuna. Under our Rules, is this allowable, Mr. Vice-President? I take it that a ruling must first be had on the suspension of the Rules or on the motion for a reconsideration before anyone of us could be free to ask questions of the Chair. I myself would have no objection to that, but I only want to clear this up because there are many pending matters and this may serve as a precedent in future deliberations, Mr. Vice-President.

THE VICE-PRESIDENT. The Chair had already ruled on the reservation because I think that reservation, although it mentions or refers to Section 4, was prompted by the Commissioner's resolution, a copy of which I have not seen yet and which the Chair ruled as not being in the agenda. We should not consider prematurely the merits and demerits of the Commissioner's proposed resolution. That was the ruling of the Chair.

MR. SUAREZ. We accept that ruling, Mr. Vice-President, but this is a different matter of inquiry: whether or not, even before the motion for a reconsideration is resolved, the honorable Commissioners would be entitled, as a matter of right, to address inquiries to the Chair. If that is allowable, that is fine; but we only want this to be a precedent to be invoked in future deliberations, Mr. Vice-President.

THE VICE-PRESIDENT. What precedent, Commissioner Suarez? I just noted the reservation because I think it has reference to your proposed resolution which is not yet in the agenda.

MR. DE CASTRO. Mr. Vice-President.

MR. RAMA. Mr. Vice-President, I ask that Commissioner de Castro be recognized.

THE VICE-PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. I asked a question for clarification of the proponent of Section 4 which we accepted yesterday. He told me that the interpretation of "consistent with national interest" includes defense and security of the State. And when his interpretation jibes with mine, I accepted it and did not make any move. My intention, Mr. Vice-President, is that if his interpretation is different from mine, I will move for a reconsideration without reservation. But now that his interpretation of national interest is in line with mine, I am not moving for a reconsideration anymore. That was my only intention; otherwise, I should have moved for a reconsideration right now without awaiting the reservation of the Honorable Monsod.

Thank you, Mr. Vice-President.

SUSPENSION OF SESSION

MR. RAMA. Mr. Vice-President, I move for a suspension of the session.

THE VICE-PRESIDENT. The session is suspended.

It was 11:24 a.m.

RESUMPTION OF SESSION

At 11:32 a.m., the session was resumed, with the Honorable Regalado E. Maambong presiding.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Davide be recognized to amend Section 8.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Davide is recognized.

MR. DAVIDE. Thank you, Mr. Presiding Officer.

The amendment on Section 8 is very simple. On line 22, I seek for the substitution of the words "the pursuit" with "ALL PHASES" and the deletion of the word "objectives."

On lines 23 to 28, delete all the words therein, so that the whole section will only read: "The State shall intensify efforts to promote social justice in ALL PHASES of national development."

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. Mr. Presiding Officer, we should have said this a while ago, but Commissioner Davide presented an amendment to which we accede except for a little difference. We would like to say, based on Commissioner Davide's amendment: "The State shall intensify efforts to promote social justice in ALL PHASES of development." So that all other words found on lines 23 to 28 are deleted.

THE PRESIDING OFFICER (Mr. Maambong). Is it the understanding of the Chair that the reaction of the committee is that it agrees to the amendment of Commissioner Davide?

MR. TINGSON. Yes, precisely, Mr. Presiding Officer. May I repeat. Section 8 will now just read: "The State shall intensify efforts to promote social justice in ALL PHASES of development."

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The Chair would like the committee to read the first section on the Article on Social Justice which contains practically the same words. For this purpose, the Chair will suspend the session.

It was 11:34 a.m.

RESUMPTION OF SESSION

At 11:39 a.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Tingson be recognized.

THE PRESIDING OFFICER (Mr. Maambong). The chairman of the committee is recognized.

MR. TINGSON. Mr. Presiding Officer, I am, in turn, asking Commissioner Rosario Braid, one of the committee members, to please take care of this particular section.

MS. ROSARIO BRAID. Mr. Presiding Officer, our committee amendment in Section 8 reads: "The State shall intensify efforts to promote social justice in ALL PHASES of development."

MR. SARMIENTO. Mr. Presiding Officer, may I be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment, Commissioner Sarmiento.

Is Commissioner Rosario Braid through with her reading of the new formulation?

MS. ROSARIO BRAID. Yes, this is the new formulation, Mr. Presiding Officer, which differs from the opening sentence of the Article on Social Justice.

THE PRESIDING OFFICER (Mr. Maambong). The Chair now recognizes Commissioner Sarmiento.

MR. SARMIENTO. May I address two questions to Commissioner Rosario Braid. Section 1 of the Article on Social Justice reads: "The State shall promote social justice in all phases of national development."

We have this new formulation in the Article on Declaration of Principles which reads: "The State shall intensify efforts to promote social justice in ALL PHASES of development." May we know the reason why the committee adopted the words "intensify efforts" instead of "promote"? That is my number one question.

The second question: Why did the committee delete the word "national" and simply use "development"?

THE PRESIDING OFFICER (Mr. Maambong). Could we have a response from the committee?

MS. ROSARIO BRAID. The phrase "intensify efforts" here recognizes that there are already efforts towards achieving social justice. The declaration would like to intensify these efforts.

We deleted "national" because "development" is an all-embracing concept which includes the concept of human development – the concept of that goes beyond national boundaries. It also extends beyond. It recognizes that social justice is not just a means as used in national development but an end. Also, it includes an attitudinal frame of mind which would extend man's concept beyond his family, social group and national boundary towards the whole international community.

This is the concept of social justice as defined in this provision.

MR. SARMIENTO. I thank the Commissioner.

THE PRESIDING OFFICER (Mr. Maambong). The chairman is recognized.

MR. TINGSON. We certainly would appreciate it very much, if the body could expedite matters somehow. Perhaps, I will agree with the committee that this one brief pungent sentence would be sufficient for Section 8.

THE PRESIDING OFFICER (Mr. Maambong). Will the committee explain to the body whether or not there is any substantial difference between this formulation and the first sentence of Section 1 of the Article on Social Justice.

MR. TINGSON. There is no substantial difference, Mr. Presiding Officer. We justify this, of course, by the fact that this is a declaration of principle which, as already explained before, could be given flesh and further elucidation in the other committees, for instance, in the Social Justice Committee.

THE PRESIDING OFFICER (Mr. Maambong). It is also the understanding of the Chair that the second sentence starting with the words "To this end" on line 23 up to "structures" on line 28 is supposed to be deleted.

MR. TINGSON. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Mr. Floor Leader, are we ready to vote?

MR. RAMA. Mr. Presiding Officer, there is a suggestion by Commissioner Bernas that perhaps for purposes of a tidier framing of the Constitution, the same phrase contained in the Article on Social Justice may be deleted by the Committee on Style upon its recommendation since this is already included in the Article on the Declaration of Principles.

MR. TINGSON. Mr. Presiding Officer, the committee would not pose any objection to that. We will, of course, give the discretion to the Committee on Style.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Guingona is recognized.

MR. GUINGONA. Just for clarification. The matter of reviewing the draft Constitution for purposes of avoidance of repetitions is not a function of the Committee on Style.

Under Section 8 (17) of the Rules, it is the function of the Committee on Sponsorship. So I think reference should be made to the Committee on Sponsorship, not to the Committee on Style. Even the chairman of the Committee on Style agrees to this.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Before we get entangled in all these, may the Chair suggest to Commissioner Bernas that we do not use the same words. Perhaps, he could formulate a new wording so that Commissioner Rodrigo, chairman of the Committee on Style, will not be put in a very difficult situation.

FR. BERNAS. Actually, Mr. Presiding Officer, my recommendation was not to delete the principle already approved in the Article on Social Justice, but rather to transfer it to the Article on the Declaration of Principles. In other words, the Article on Social Justice would be an implementation of the general principle. The general principle is found in what we have already approved. So we simply transfer that to the Article on the Declaration of Principles.

THE PRESIDING OFFICER (Mr. Maambong). To be more specific, is Commissioner Bernas suggesting that Section 1 of the Article on Social Justice will be transferred as Section 8 of the present formulation?

FR. BERNAS. That is the substance of what I am saying.

THE PRESIDING OFFICER (Mr. Maambong). So it is only Section 1, not Section 2.

FR. BERNAS. Yes, just Section 1.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nolledo is recognized.

MR. NOLLEDO. Do we have a copy of the provisions of the Article on Social Justice?

MR. TINGSON. Yes, we have one.

THE PRESIDING OFFICER (Mr. Maambong). The Chair also has.

MR. NOLLEDO. I think the committee should make a comparison between our proposal and the pertinent provisions of the Article on Social Justice.

MR. TINGSON. Mr. Presiding Officer, we already did a while ago and really the formulation of the committee is not the same. The essence and meaning is still there but the formulation is stated differently as explained by Commissioner Rosario Braid a while ago.

THE PRESIDING OFFICER (Mr. Maambong). With the indulgence of the honorable Vice-President, may I recognize first Commissioner Nieva. She has been transferring from one microphone to another.

MS. NIEVA. I just want to clarify the status now. According to Commissioner Bernas, the statement "The State shall intensify efforts to promote social justice in ALL PHASES of national development" should be the omnibus provision in the Article on the Declaration of Principles. Hence, the first sentence in the Article on Social Justice, Section 1, "The State shall promote social justice in all phases of national development," will be deleted. Is it only the first sentence or the whole section?

MR. DE CASTRO. Mr. Presiding Officer.

FR. BERNAS. May I hear again what the Commissioner read?

MS. NIEVA. In the Article on the Declaration of Principles, the proposed provision says: "The State shall intensify efforts to promote social justice in ALL PHASES of development." In the Social Justice Article, Section 1 starts with this statement: "The State shall promote social justice in all phases of national development." Do I understand that this first sentence will now be deleted since this now appears here in the Article on the Declaration of Principles?

FR. BERNAS. I do not like to use the word "deleted." I think the Commissioner is rejecting it.

MS. NIEVA. So it would be transposed.

FR. BERNAS. It would just be transposed.

MS. NIEVA. But would that refer only to the first sentence?

FR. BERNAS. Yes, to the first sentence.

MS. NIEVA. So the rest will remain. The section now starts with "In the pursuit of social justice . . ."

FR. BERNAS. Yes. If we delete the first sentence, then the second sentence will read: "In the pursuit of social justice . . ."

MS. NIEVA. Now I understand. I thought we have deleted the whole section.

THE PRESIDING OFFICER (Mr. Maambong). May I just clarify this for the committee. The suggestion of Commissioner Bernas is that the first sentence of Section 1 of the Article on Social Justice which reads: "The State shall promote social justice in all phases of national development" will be transposed to Section 8 of the Article on the Declaration of Principles. The second sentence thereof and Section 2 will remain with the Social Justice Article with slight modification. Is that correct, Commissioner Bernas?

FR. BERNAS. Yes, exactly.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. Inasmuch as the chairman of the Social Justice Committee obviously and willingly acceded to that suggestion, we would favor it, Mr. Presiding Officer. In fact, we like it that way. So the committee accepts the Bernas suggestion.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The honorable Vice-President is recognized.

MR. PADILLA. My observation is that the different articles or provisions in the Constitution need not necessarily be restated or be a part of the Article on the Declaration of Principles. In fact, I would like to have a distinction between principles and policies.

If we want to consider social justice as part of the Article on the Declaration of Principles, why do we not just adopt the provision in Section 5 of the 1935 Constitution which reads:

> The promotion of social justice to ensure the well-being and economic security of all the people should be the concern of the State.

THE PRESIDING OFFICER (Mr. Maambong). What does the committee say?

MR. TINGSON. Mr. Presiding Officer, some Members would like Commissioner Padilla to read it once more.

MR. PADILLA. Section 5, Article II on the Declaration of Principles in the 1935 Constitution reads:

> The promotion of social justice to ensure the well-being and economic security of all the people should be the concern of the State.

Perhaps with this we would be avoiding the repetition of the phrase "The State shall."

MR. TINGSON. The committee accepts that good suggestion. The wording is good and then, secondly, there would be a bridge somehow also between the 1935 Constitution to the work that we are now framing.

MS. NIEVA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nieva is recognized.

MS. NIEVA. The 1935 Constitution just ensures the well-being and economic security. The 1973 Constitution goes a bit further. It ensures the dignity, the welfare and security of all the people. So that phrase "well-being and economic security" is the 1935 Constitution wording and I think the word "dignity" is very important which may not be envisioned or embraced by the phrase "well-being and economic security."

MR. TINGSON. Mr. Presiding Officer, the committee suggests to Commissioner Nieva to amend Commissioner Padilla's amendment, if she so desires.

MS. NIEVA. Yes. If Commissioner Padilla would like to start with the phrase "The promotion of social justice," to avoid the repetition of the phrase "the State shall," it will be all right. The proposed amendment then will read: "THE PROMOTION OF SOCIAL JUSTICE TO ENSURE THE DIGNITY, WELFARE AND SECURITY OF ALL THE PEOPLE SHOULD BE THE CONCERN OF THE STATE."

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bernas, shall we finish this issue first?

Commissioner Padilla is recognized.

MR. PADILLA. The phrase, "to ensure the well-being and economic security of all the people," in the 1935 Constitution is even better than the phrase used in the 1973 Constitution which says: "The State shall promote social justice to ensure the dignity, welfare and security of all the people." The phrase "the well-being" is even more specific and clearer than the phrase "dignity and welfare."

After all, in Section 7, I believe that the dignity of man is already mentioned there.

THE PRESIDING OFFICER (Mr. Maambong). To abbreviate the proceedings, the Chair recommends that all the suggestions of Vice-President Padilla and Commissioner Nieva be submitted to the committee so that the committee can make a definitive statement on this. In the meantime, the Chair recognizes Commissioner Bernas on his original proposal.

FR. BERNAS. I would like to go back to my original proposal because I think that the Article on Social Justice which we approved earlier goes beyond the 1935 and the 1973 Constitutions. The 1935 Constitution's concern was mainly economic prosperity and the 1973 Constitution became a little bit more explicit about that. But when we come to the Article on Social Justice in our provision now, we go not just into socioeconomic matters also but into sociopolitical matters and we even touch on cultural inequities. So, this is a development beyond the 1935 Constitution. Hence, I do not see why we should allow ourselves to be nailed to the 1935 Constitution when we have liberated ourselves already from that rather limited concept of social justice. So I would like to go back to my original proposal, that we start with a very general statement on social justice: "The State shall promote social justice in all phases of national development." Then when we come to the Article on Social Justice, we try to explain what we mean by this phrase "all phases of national development" which includes socioeconomic, sociopolitical and cultural development. I just want to emphasize the fact that we have transcended the 1935 Constitution and that we do not allow ourselves to be nailed to that.

THE PRESIDING OFFICER (Mr. Maambong). Will the committee please take serious note of the reasons of Commissioner Bernas so that the committee can resolve this.

Commissioner Padilla is recognized.

MR. PADILLA. Mr. Presiding Officer, the various provisions under the Article on Social Justice, will still remain under this proposal. It does not mean the deletion of the entire Article on Social Justice. All those other provisions will remain. It is true that in the 1935 Constitution there is only one section for the Declaration of Principles. In the 1973 Constitution, there is also one section for the Declaration of Principles but expressed in two sentences. The second sentence in the 1973 Constitution is what Commissioner Bernas says is the expansion. But those are already provided for in the Article on Social Justice. So, I believe that adopting the one-section provision in the Declaration of Principles in the 1935 Constitution and retaining the many articles and sections on the title of the Article on Social Justice would be very good provisions in our 1986 Constitution.

THE PRESIDING OFFICER (Mr. Maambong). Does Commissioner Bernas want to respond? Will Commissioner Davide wait for just a moment so that we can finish his interpellations.

Commissioner Bernas is recognized.

FR. BERNAS. Yes. The whole point I am trying to say is that the formulation in the 1935 Constitution is a very limited concept. It is limited to economic social justice. It says: "The well-being and economic security of all the people." If we look at the jurisprudence of the 1935 Constitution, we will see that the whole jurisprudence in this is along socioeconomic lines. It does not contain in seed what we have put into our new draft Constitution. It is an inadequate expression of what we are now trying to achieve.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Rosario Braid, member of the committee, is recognized.

MS. ROSARIO BRAID. Yes, we would like to stay with our original proposal. Therefore, we will not delete the opening phrase in the Article on Social Justice anymore. We would like the Commission to vote on this, if necessary.

THE PRESIDING OFFICER (Mr. Maambong). Before the Chair recognizes Commissioner Davide, there are now two proposals on stream, subject to the committee's decision.

The Chair will now recognize Commissioner Davide.

MR. DAVIDE. Mr. Presiding Officer, I was about to raise a point of order. I understand that the committee had already accepted the Bernas proposal, which to me is really very logical. It is just a matter of transporting the first sentence of the Article on Social Justice to the Article on Declaration of Principles, and, precisely, to the very section that we are discussing now.

We have approved that particular Section 1 of the Article on Social Justice. So, if we have to vote on the transportation of the first sentence to the Declaration of Principles, that would be consistent with the original stand of the Commission. We should not insert in it any provision of the 1935 Constitution nor of the 1973 Constitution, because it will destroy the very essence of the Article on Social Justice.

So, I will call for the previous question; that is, the acceptance of the Bernas proposal.

THE PRESIDING OFFICER (Mr. Maambong). The Chair takes the statement of Commissioner Davide as an additional argument for the proposal of Commissioner Bernas. The Chair will not rule on the point of order. The difficulty here as far as the Chair is concerned is that the committee believes that both proposals are good. That is the problem.

MS. ROSARIO BRAID. No.

THE PRESIDING OFFICER (Mr. Maambong). So, if the committee will want a two-minute recess, so that they can decide for themselves what proposal is good out of the two, which are both good, then the Chair will entertain a suspension of the session.

MR. TINGSON. Mr. Presiding Officer, that is exactly what we want to say.

Thank you very much.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Maambong). The session is suspended.

It was 12:02 p.m.

RESUMPTION OF SESSION

At 12:07 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Maambong). The session is resumed.

The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Tingson, the chairman of the committee, be recognized.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Tingson is recognized.

MR. TINGSON. Mr. Presiding Officer, our committee was under the understanding that we were mandated, so to speak, to just move the first sentence in the committee report regarding the Article on Social Justice to the Article on Declaration of Principles. Therefore, Section 8 will now read: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT." That is word for word lifted from the Article on Social Justice to the Article on Declaration of Principles.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection to the adoption of the words: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT," to be Section 8 in the Declaration of Principles?

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). The honorable Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA. That transposition from the Article on Social Justice to the Article on Declaration of Principles is the amendment of Commissioner Bernas. I have a proposed amendment to that amendment by adopting Section 5, Article II of the 1935 Constitution which reads: "THE PROMOTION OF SOCIAL JUSTICE TO ENSURE THE WELL-BEING AND ECONOMIC SECURITY OF ALL THE PEOPLE SHOULD BE THE CONCERN OF THE STATE."

FR. BERNAS. Mr. Presiding Officer.

MR. PADILLA. The first sentence in the Article on Social Justice does not have to be deleted nor transferred. It can remain in the Article on Social Justice. But for the Article on the Declaration of Principles, my proposed amendment to the amendment is the adoption of Section 5, Article II of the 1935 Constitution.

FR. BERNAS. Mr. Presiding Officer.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. PADILLA. If that is not acceptable to Commissioner Bernas, then I would ask that my amendment to his amendment be voted upon.

MR. DE CASTRO. Parliamentary inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Just a moment, Commissioner de Castro. There were two proposals presented before the committee. The committee decided to adopt the proposal of Commissioner Bernas. The Chair would just like to specify that what we are going to vote on in Section 8 is not the transposition, but the wordings which read: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT."

The Chair will take care later on on how to deal with this precise Article on Social Justice. That would be for later. So the situation now is that there is an objection from Commissioner Padilla regarding the formulation of Section 8 by the committee which reads: "The State shall promote social justice in all phases of national development." Mr. Floor Leader, are we ready for a vote?

MR. DE CASTRO. Parliamentary inquiry, please.

THE PRESIDING OFFICER (Mr. Maambong). Let us take care of the parliamentary inquiry first of Commissioner de Castro.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

I am not used to parliamentary rules but I am only reading Sections 27 and 28 of our Rules. The Article on Social Justice has been approved on Second Reading. It is ready for Third Reading. Can it still be the subject of a debate and transposition in the light of the third sentence of Section 28 which reads: "No further debate nor amendment shall be made on the resolution on its Third Reading?" This article is now scheduled for Third Reading since it is already approved on Second Reading. My question is: Is it still allowed by the Rules that debate on an article or a section which has been approved on Second Reading be in order?

THE PRESIDING OFFICER (Mr. Maambong). The Chair perfectly understands the parliamentary inquiry of Commissioner de Castro. First of all, the Chair would like to say that it agrees with Commissioner Bernas that we are not talking here of deletion. It is only a transposition. The query of Commissioner de Castro is: Can transposition and debate be properly done? That is the reason why the Chair indicated earlier that we should first approve the provision in Section 8, then the Chair will later on deal with how to approach the problem on the deletion of that particular word because it will be, in effect, transposed. And since there is a query, the Chair would like to indicate that once we approve Section 8 of the Declaration of Principles, the Chair will entertain a motion from any one of the Members of the Commission to delete that particular portion in Section 1 of the Article on Social Justice and under the provisions of our Rules there will be an instruction to the Committee on Sponsorship to delete that particular provision. At any rate, it will not really be deleted because it will only be transposed. I hope that satisfies Commissioner de Castro.

MR. DE CASTRO. It satisfied me on one point but it does not satisfy me on the second point. The first point is transposition. It is all right. The second point is debate. We are actually debating now on the transposition or the nontransposition and the other sentences of Section 1 of the Article on Social Justice which are connected with the first sentence. Are we allowed by the Reading? The Rules states: "No further debate nor amendment shall be made on the resolution on its Third Reading." It is now on its Third Reading. Are we still allowed to debate on it? That is my inquiry. As I said I am not used to parliamentary rules.

THE PRESIDING OFFICER (Mr. Maambong). In answer to Commissioner de Castro, the Chair would like to repeat what it said. We are not deleting anything under the Article on Social Justice which we are not putting into the Declaration of Principles. So, the issue on whether we are going to debate on the substance of Section 1 is not well taken because we are not going to debate on the substance of Section 1. We are only going to transpose the first sentence thereof if that will be approved by the body. I hope that satisfies Commissioner de Castro so that we can proceed.

MR. DE CASTRO. Thank you.

In time, I will also object to certain words that will be made on the second sentence of Section 1 of the Article on Social Justice.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, this is in response from the committee on the Padilla amendment.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you.

If we adopt the Padilla amendment we will be adopting a provision that has a restrictive meaning, compared with the approved sentence of Section 1 of the Article on Social Justice. The provision in the Declaration of Principles should reflect what is contained in the Article on Social Justice.

As correctly pointed out by Commissioner Bernas, we talk of the promotion of social justice in all phases of development in Section 1 of the Article on Social Justice. Therefore, this is broader in scope compared with merely social well-being and economic security mentioned in the 1935 Constitution. So there will be no symmetry, Mr. Presiding Officer.

I know when we talk of social well-being, social aspects and economic security, we also talk of economic aspects. But we talk of social justice, as indicated by Commissioner Rosario Braid, in many respects, not only on the economic and social aspects. So I think that the Bernas amendment is truly in order.

Thank you.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Bernas is recognized.

FR. BERNAS. I do not accept the amendment to my amendment, and I ask for a vote.

MS. ROSARIO BRAID. Yes.

THE PRESIDING OFFICER (Mr. Maambong). Before we take a vote, does the honorable Vice-President have anything to add to what he already said?

MR. PADILLA. I was just going to say, Mr. Presiding Officer, that if my amendment to the amendment is adopted, this first sentence in Section 1 of the Article on Social Justice will still remain. I believe that as a principle, the well-being and economic security of all the people is the essence of the concept of promotion of social justice.

When we say "in all phases of national development" in the Article on Social Justice, and then there are many other provisions on labor, etc., then that is in accordance with and not in disregard of the well-being and economic security of the people.

MR. DAVIDE. Mr. Presiding Officer.

MR. PADILLA. So as Commissioner Bernas has not accepted my amendment to his amendment, then it is correct to say that we vote first on my proposed amendment, and; that is, without changing the provisions on the Article on Social Justice, we adopt as Section 8 in the Declaration of Principles, Section 5, Article II of the 1935 Constitution which reads: "The promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State."

THE PRESIDING OFFICER (Mr. Maambong). The Chair will clarify the situation before the voting. In the meantime, Commissioner Davide is recognized.

MR. DAVIDE. Mr. Presiding Officer, with all due respect to the Vice-President, I would raise a point of order insofar as the Padilla amendment is concerned. The proposal would, in effect, reopen the Article on Social Justice which we had already voted on Third Reading. It is at this point that I would say that the position taken by Commissioner de Castro was correct: we have laid to rest the Article on Social Justice and, therefore, it cannot be reopened directly or indirectly even by way of a declaration of principles because there is indeed a whale of a difference between the concept of social justice which this Commission had adopted, and the concept of social justice as embodied in the 1935 Constitution or even in the 1973 Constitution.

So, even if it is submitted as a reformulation to the original wording of the committee on Section 8, that would amount to a reopening of the Article on Social Justice. But we have the Bernas proposal which is merely to transpose or to transfer the first sentence of the first section on Social Justice to the Declaration of Principles, which is proper and logical at this time.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Before hearing from Commissioner Padilla, the Chair would like to dispose of the point of order raised.

The Chair would consider the statements of Commissioner Davide as statements in support of the proposal of Commissioner Bernas. The Chair will not rule on that particular point of order considering that that is only a point of information.

The honorable Vice-President, Commissioner Padilla, is recognized.

MR. PADILLA. The statements just made by Commissioner Davide are based on two-fold assumptions. First, that it is a reopening.

I am not changing any of the provisions on the Article on Social Justice. How can it be a reopening?

The second assumption is that Section 5 of the 1973 Constitution is not in accordance with or is violative of the Article on Social Justice, as approved. There is no opposition and there is no inconsistency. On the contrary, I believe that the phrase "well-being and economic security of all the people" is clearer and better than the very vague statement of the phrase "IN ALL PHASES OF NATIONAL DEVELOPMENT."

THE PRESIDING OFFICER (Mr. Maambong). The honorable Vice-President has indicated that several times already.

MR. PADILLA. So, I am willing to submit it to a vote.

THE PRESIDING OFFICER (Mr. Maambong). One of the committee members, Commissioner Rosario Braid, is recognized.

MS. ROSARIO BRAID. With due regard to Vice-President Padilla's representation, we disagree with his stand that the provisions of the 1935 Constitution support the social justice provisions of our present article.

First, the 1935 Constitution is not only economic; but it does not also imply the full participation, the full partnership of beneficiaries of development, the people with those who plan development. In other words, what we want to connote here is the concept of partnership and participation, and the dignity of every member of all sectors, and this is not contained in the 1935 Constitution very clearly.

The term "well-being" could support the old model of development of people being the passive receivers of development under a system of patronage. This is really what it connotes; it does not involve the concept of participation.

We can have the state of well-being of economy without being involved in the process of development. That is why we do not support the inclusion of the provision of the 1935 Constitution.

MR. PADILLA. The 1935 Constitution says "all the people." So it is the participation of all; it is not mere grants or mere concessions. It is all the people, and the well-being of all.

The Article on Social Justice enumerates or specifies, but it does not mean that the well-being and economic security of all the people is contrary to the concept and the specifics in the Article on Social Justice.

What this Commission or the committee did is to expand or specify different subheadings. In other words, instead of having one section under the 1935 Constitution, we now have 16 sections. My proposal does not change nor reconsider nor go against any of these specifics on sixteen articles. So, the Article on Social Justice as approved on Second Reading remains intact. What I am saying is that there is no inconsistency, much less conflict between the concept of social justice in the 1935 Constitution and the same concept as specified with details in the Article on Social Justice.

REV. RIGOS. Mr. Presiding Officer.

MR. TINGSON. Let us vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Commissioner Rigos is recognized.

REV. RIGOS. I would like to support the motion of Commissioner Padilla. It really does not in any way reopen our Article on Social Justice already approved on Second Reading.

The 1935 formulation is not an obsolete formulation, as far as declaration of principles on Social Justice is concerned. So, I agree that we vote on that and settle the matter once and for all.

VOTING

THE PRESIDING OFFICER (Mr. Maambong). The Chair would like to ask the committee to take note of the statement of Commissioner Rigos in support of the position of Commissioner Padilla.

The Chair will now act on the motion of the Floor Leader for a vote. But before we do that, let us clarify the situation.

The original committee formulation in Section 8 is no longer with us. That is out of the picture. What we have now is the formulation of the committee which reads in one sentence: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT."

There is a motion by the honorable Vice-President to substitute this with the provision on social justice in the 1935 Constitution. Therefore, we have to vote first on the motion of the honorable Vice-President for a substitution of the formulation of the committee.

In other words, if we are in favor of the amendment by substitution of the honorable Vice-President, Commissioner Padilla, we will vote "yes."

So, the Chair will now put it to a vote.

As many as are in favor of the amendment by substitution of the honorable Vice-President, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 14 votes in favor of the amendment by substitution of Commissioner Padilla and 17 against; the amendment is lost.

Are we now ready to put to a vote the single sentence formulation on Section 8, which reads: "THE STATE SHALL PROMOTE SOCIAL JUSTICE IN ALL PHASES OF NATIONAL DEVELOPMENT"?

MR. RAMA. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Maambong). Is there any objection to this formulation of the committee on Section 8? *(Silence)* There being no objection, this particular Section 8 is approved.

The Floor Leader is recognized.

ADJOURNMENT OF SESSION

MR. RAMA. Mr. Presiding Officer, I move that we adjourn the session until Monday at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Maambong). There is a motion to adjourn.

Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The session is adjourned on Monday at nine-thirty in the morning.

It was 12:29 p.m.

R.C.C. NO. 89

Monday, September 22, 1986

OPENING OF SESSION

At 10:01 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Adolfo S. Azcuna.

Everybody remained standing for the Prayer.

PRAYER

MR. AZCUNA. Almighty Father, help us to remember that to think great thoughts, we must be heroes, as well as idealists; that we must learn to fix our course by a star which we have never seen; to dig by the divining rod for springs which we may never reach; and to go on working and giving it our best, sustained only by the conviction that years from now, generations yet unborn will be marching to the tempo of our thoughts. Amen.

ROLL CALL

THE PRESIDENT. The Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*
Alonto	Present
Aquino	Present*
Azcuna	Present
Bacani	Present*
Bengzon	Present
Bennagen	Present*
Bernas	Present
Rosario Braid	Present
Calderon	Present
Castro de	Present
Colayco	Present*
Concepcion	Present
Davide	Present*
Foz	Present
Garcia	Present*
Gascon	Present
Guingona	Present
Jamir	Present
Laurel	Absent
Lerum	Present
Maambong	Present*
Monsod	Present
Natividad	Present*
Nieva	Present
Nolledo	Present*
Ople	Present
Padilla	Present
Quesada	Present
Rama	Present
Reyes de los	Present
Rigos	Present
Rodrigo	Present
Romulo	Present
Rosales	Absent
Sarmiento	Present
Suarez	Present*
Sumulong	Present
Tadeo	Present*
Tan	Present*
Tingson	Present
Treñas	Present
Uka	Present
Villacorta	Present
Villegas	Present

The Secretariat is in receipt of official advice of absence of Commissioner Regalado.

The President is present.

The roll call shows 31 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

MR. CALDERON. I move that we dispense with the reading of the Journal of the previous session.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

APPROVAL OF JOURNAL

MR. CALDERON. Madam President, I move that we approve the Journal of last Saturday's session.

THE PRESIDENT. Is there any objection that we approve the Journal of the previous session? *(Silence)* The Chair hears none; the motion is approved.

MR. CALDERON. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

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*Appeared after the roll call

REFERENCE OF BUSINESS

The Secretary-General read the following Communications, the President making the corresponding references:

COMMUNICATIONS

Communication from Mr. Zacarias P. Raner, 8 Barile Street, Kabankalan, Negros Occidental, expressing his reaction against the proposal to make Tagalog/Pilipino as our national language, saying that the dominance of Tagalog, which is spoken by around 25% of our people, has caused the alienation of the 75% of our compatriots who are non-Tagalog.

(Communication No. 949 – Constitutional Commission of 1986)

To the Committee on Human Resources.

Letter from Atty. Rodulfo S. Rosales, Editor, *The Lemuria Times,* 65 V. Luna Road, cor. Maginoo St., Quezon City, expressing support for the retention of the U.S. military bases and against the policy of neutrality.

(Communication No. 950 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Sister Carmen Balazo and nineteen (19) other members of the Association of Religious Women in Zambales, seeking the dismantling of the U.S. military bases in the Philippines.

(Communication No. 951 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communication from Mr. Ernesto C. Gonzalez, 669 Aurora Blvd., Quezon City, expressing opinion on the status of Filipino citizens who are "green card" holders, saying that a "green card" holder who remains to be a Filipino retains his Filipino citizenship and as such, is entitled to the rights, duties, obligations and privileges of a Filipino citizen and consequently entitled to hold public office.

(Communication No. 952 – Constitutional Commission of 1986)

To the Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights.

Communication from Mr. David D. Boaz, 224 Second Street SE, Washington, D.C., transmitting a copy of the *Cato Report* containing an article by Dr. Paul Craig Roberts, "The Constitutional Protection of Economic Freedom," hoping that the same may be of use to the Constitutional Commission.

(Communication No. 953 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from Mr. Dexter B. Bajade, transmitting Resolution No. 13, series of 1986, adopted by the Sangguniang Panlalawigan of Agusan del Sur, expressing support to the adoption of a nationalist-oriented Philippine Constitution.

(Communication No. 954 – Constitutional Commission of 1986)

To the Steering Committee.

Communication from Ms. Erlinda Q. Martinez, transmitting Resolution No. 47-86 of the Sangguniang Bayan of Trento, Agusan del Sur, expressing support for the adoption of a truly nationalist constitution.

(Communication No. 955 – Constitutional Commission of 1986)

To the Steering Committee.

MR. CALDERON. Madam President.

THE PRESIDENT. The Assistant Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537

(Article on the Declaration of Principles)

Continuation

PERIOD OF AMENDMENTS

MR. CALDERON. I move that we continue the consideration of the Article on the Declaration of Principles. We are now in the period of amendments.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the Committee on the Declaration of Principles will please occupy the front table so we can continue the period of amendments. For the information of the body, we will be imposing our Rules on the time to be allotted to every speaker, the three-minute rule. We will request the members of the committee or the chairman to designate who will be the one to speak for the committee, unless there are two views, in which case, there will be one for each of the minority and the majority views.

Who will be our first speaker or proponent of an amendment?

SUSPENSION OF SESSION

MR. CALDERON. Madam President, we are now in Section 10, and those who have amendments shall please see and confer with the committee chairman.

In the meantime, I move for the suspension of the session for three minutes.

THE PRESIDENT. The session is suspended.

It was 10:10 a.m.

RESUMPTION OF SESSION

At 10:26 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. Regarding Section 10, the committee, along with Commissioners Gascon, Monsod and Davide, is recommending the following formulation for our Declaration of Principles: "The State recognizes the vital role of the youth in nation-building and shall promote AND PROTECT their physical, moral, spiritual, intellectual, and social well-being. IT shall inculcate in the youth nationalism, patriotism and ENCOURAGE THEIR involvement in PUBLIC AND CIVIC SERVICE."

THE PRESIDENT. Is there any comment?

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. Madam President, instead of "SERVICE," may I propose "AFFAIRS" – "PUBLIC AND CIVIC AFFAIRS."

MR. TINGSON. We accept, Madam President.

MR. GASCON. Madam President.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. During the period of interpellations, I asked two questions with regard to the term "involvement" so that I could be clarified since I wanted to present a proposal. With regard to this, we retained the words "involvement" and "encourage THEIR involvement in PUBLIC AND CIVIC AFFAIRS." I asked Commissioner Nolledo whether this implies therefore that as a principle, we should also encourage representation of the youth in affairs which affect them. Is the issue of representation of the youth and the encouragement of their participation in the affairs of the State implied, Madam President?

MS. ROSARIO BRAID. Yes, Madam President. "Involvement" would be "participation and representation" in public affairs.

MR. GASCON. So, with that assurance, I will not continue my proposal of including the word "representation." I am happy with the proposal, Madam President.

THE PRESIDENT. Is there any comment? Are we ready to vote?

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. We would like to inform the body that the committee has decided to move lines 13, 14 and 15 to the Article on Family Rights. We believe that these lines are details which are more appropriate in the Article on the Family Rights:

> The State shall protect children from all forms of neglect, cruelty and exploitation, particularly in conditions harmful to their physical, mental or moral well-being.

THE PRESIDENT. So, these will not form part anymore of Section 10?

MS. QUESADA. No more, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I have an amendment to the first paragraph of Section 10. I propose to add the words "AND PROTECT" after the word "promote."

MR. TINGSON. That was already stated, Madam President.

THE PRESIDENT. Will the chairman please read again Section 10, as formulated.

MR. TINGSON. Yes, Section 10, as formulated, reads: "The State recognizes the vital role of the youth in nation-building and shall promote AND PROTECT their physical, moral, spiritual, intellectual, and social well-being. IT shall inculcate in the youth patriotism, nationalism, and ENCOURAGE THEIR involvement in PUBLIC AND CIVIC AFFAIRS."

VOTING

THE PRESIDENT. As many as are in favor of this Section 10 as read by the chairman, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 22 votes in favor and none against; Section 10 as formulated is approved.

MR. TINGSON. Madam President.

THE PRESIDENT. Commissioner Tingson is recognized.

MR. TINGSON. The committee has drawn up the following formulation of Section 11 with the help of President Muñoz Palma, Commissioner Davide and the Secretary-General,

THE PRESIDENT. Shall this be part of the Record?

MR. CALDERON. Madam President, I think there is a pending request of Commissioner Aquino that we hold in abeyance the deliberation on Sections 11 and 12 until she arrives.

THE PRESIDENT. So, we can proceed to Section 13. Is the committee ready with Section 13?

MR. TINGSON. Madam President, we actually acceded to that request. Would the President allow at least the committee to read our tentative proposal subject to the participation of Commissioner Aquino when she arrives so that the body will have a general idea of the formulation, or shall we just proceed now to Section 13?

THE PRESIDENT. May we first hear Section 11 as formulated by the committee?

MR. OPLE. Prejudicial question, Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, is it correct that 22 cast their votes on Section 10? Twenty-two votes fall short of a quorum and it is a matter of record that although 31 responded, only 22 cast their votes.

THE PRESIDENT. There is a quorum.

MR. OPLE. But only 22 out of the quorum present voted.

THE PRESIDENT. Yes, there still is a quorum.

MR. OPLE. Thank you for that clarification, Madam President.

MR. TINGSON. Madam President, Section 11 would sound something like this: "The State recognizes the role and participation of women in nation-building and shall ensure the EQUAL RIGHTS of women with men in all spheres of economic, political, civic, social and cultural life, including family life."

THE PRESIDENT. What about Section 12?

MR. TINGSON. Section 12, Madam President, would be something like this: "The State affirms the RIGHT of labor as a social and economic force, and shall PROMOTE THE welfare and protect THE rights OF WORKERS."

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. May I ask whether it is the intention of the committee to entirely omit this paragraph concerning children?

THE PRESIDENT. That was already explained by Commissioner Quesada. What was the explanation of Commissioner Quesada?

MS. ROSARIO BRAID. It will be transferred to the Article on Family Rights, Madam President.

REV. RIGOS Thank you.

THE PRESIDENT. So can we proceed now to Section 13?

MS. QUESADA. Madam President, there has been a slight error in the formulation of Section 12 which was approved by the committee, and this is: "The State affirms the primacy of THE RIGHT OF labor as a social and economic force, and shall PROMOTE THE welfare and protect THE rights OF WORKERS."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I do not understand what primacy of the right of labor as . . .

THE PRESIDENT. Could we just discuss Sections 11 and 12 when Commissioner Aquino comes?

MR. MONSOD. Madam President, may I then request the committee to have these typed and distributed to us.

THE PRESIDENT. Sections 11 and 12?

MR. MONSOD. The ones that they have reformulated, Madam President.

Thank you.

MR. TINGSON. Madam President, Section 13 will now be read by Commissioner Rosario Braid.

MS. ROSARIO BRAID. Section 13 as reformulated by the committee reads: "The State shall establish, maintain, and secure adequate social services, SECURITY IN OLD AGE AND guarantee a life worthy of human dignity."

We deleted, Madam President, some phrases on lines 26, 27, 28 and 29 because we feel that these are surplusages. However, we remembered to include security in old age since we deleted it in the earlier provision.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Is this section also going to be transposed to another area or can we discuss this section now?

THE PRESIDENT. This can be discussed now.

MS. ROSARIO BRAID. Yes, this is a provision of Section 13.

MR. MONSOD. Will the Commissioner please read it again?

MS. ROSARIO BRAID. "The State shall establish, maintain, and secure adequate social services, SECURITY IN OLD AGE AND guarantee a life worthy of human dignity."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I thought we already covered the area of human dignity in an earlier section, and last Saturday, we approved the section calling for improved quality of life. Is there any difference between what we are saying here and what we are saying in the two other paragraphs that we have already approved?

MS. ROSARIO BRAID. This is the first time we mentioned "adequate social services, SECURITY IN OLD AGE."

MR. MONSOD. I agree with this first part, Madam President. It is only in the second part where we talk about guaranteeing them a life, et cetera. These are already covered in the other two sections where we talked about an improved quality of life, rising standard of living and protecting and recognizing human dignity. Are those not covered already, Madam President?

MS. ROSARIO BRAID. It is already to emphasize the importance of social services and security in old age but we are open to amendments.

MR. MONSOD. But why do we not just put a period there?

MS. ROSARIO BRAID. After the words "old age"?

MR. MONSOD. Yes, or after the words "social services."

MS. ROSARIO BRAID. We will be willing to accept that amendment but it was agreed upon earlier that we should include "SECURITY IN OLD AGE."

MR. MONSOD. I do not think that the body agreed. The committee agreed to consider it, and my proposal is that it be included under social services. When we talk about social services, we talk about the underprivileged, the sick, women, older people, et cetera. I believe that is defined more explicitly in the section on health in the Article on Social Justice.

MS. ROSARIO BRAID. Madam President, we will submit it to the body for a vote, since "SECURITY IN OLD AGE" was proposed by several Members last Saturday.

MR. GUINGONA. Madam President, perhaps I could seek to amend the proposed amendment of Commissioner Monsod as he originally proposed. Maybe, we could put a period (.) after "SECURITY IN OLD AGE" and exclude the expression "and guarantee a life worthy of human dignity."

MS. ROSARIO BRAID. Yes.

MR. GUINGONA. I wonder if Commissioner Monsod would accept that.

MR. MONSOD. My only reservation is that I believe taking care of our elderly is part of social services.

MR. GUINGONA. I know, but the other social services and recognition given to women, members of indigenous communities, youth and labor have been expressly provided here. If I remember correctly, it was suggested by Commissioner Maambong when I objected to the deletion by Commissioner Davide of the expression "security in old age," that this be included in Section 13, and this was accepted by the committee. Because I can see the point of the Gentleman regarding the expression "and guarantee a life worthy of human dignity," perhaps we could put a period (.) after "security in old age."

MR. MONSOD. Madam President, I will not die on that issue, but perhaps we should give the body a chance to vote on whether that should be added or we just put a period (.) after "social services."

THE PRESIDENT. But may we hear the proposed amendment of Commissioner Monsod?

MR. MONSOD. My proposed amendment, Madam President, is to put a period (.) after "social services."

And if Commissioner Guingona wants to, then he can put the additional phrase to a vote.

MR. GUINGONA. So the parliamentary situation will be for Commissioner Monsod to ask for deletion of the provision after the words "social services" with a reservation on my part to seek the addition of the phrase "IN THE FIELDS OF EDUCATION AND SECURITY IN OLD AGE."

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Madam President, will Commissioner Monsod answer just one question?

MR. MONSOD. Yes.

MR. OPLE. Does the term "social services" include social security?

MR. MONSOD. Yes, Madam President. As a matter of fact, it is included in the original formulation of the committee which says: "social services in the fields of education, health, housing, employment, welfare and social security."

MR. OPLE. I am glad to hear that because I just wanted to say for the record that security in old age is only one of several major benefits granted by our Social Security System to eight million enrolled workers in the private sector, and the workers pay for these benefits, Madam President. They are not wards of the State; most of them are able-bodied workers engaged in productive employment who pay a proportion of their wages as payroll tax for social security. And, therefore, I would urge against putting them in the bracket of dependent wards of the State. They are paying for all of these benefits at the prime of their working age so that later on, in the twilight of their lives, they will have earned the security that they paid for.

Thank you, Madam President.

MR. MONSOD. Madam President, I agree with Commissioner Ople, and "social services" precisely is a more comprehensive and broader term that includes those instances.

THE PRESIDENT. The parliamentary situation is this: The committee has submitted its new formulation of Section 13. Commissioner Monsod proposed an amendment. The proposal of Commissioner Guingona is, in fact, part of the committee report.

MR. GUINGONA. Yes, Madam President.

THE PRESIDENT. So that it is already covered in the committee report.

MR. GUINGONA. Madam President, may I make a manifestation regarding the remark of Commissioner Ople? Not all those who are covered by the Social Security System now could be included in the social security that might be envisioned under this proposal. Perhaps, what we could do is, since there seems to be an objection to the limitation with reference to the social security to security in old age, we could fall back on the proposed amendment of Commissioner Davide which amplifies and explains the meaning or elaborates on the meaning of social security by saying "INCLUDING SECURITY IN THE EVENT OF UNEMPLOYMENT, SICKNESS, DISABILITY, WIDOWHOOD, OLD AGE, OR LACK OF LIVELIHOOD IN CIRCUMSTANCES BEYOND THE CONTROL OF THE CITIZEN."

THE PRESIDENT. We will have to vote first on the Monsod amendment.

Commissioner Tan is recognized.

SR. TAN. Madam President, besides what Commissioners Ople and Monsod said, I, too, have a problem with old age, because it is not only included in social services and social security, but it is within our natural life as a Filipino and which we are very proud of. It is within our culture to take care of our old. So if we mandate it in the Constitution, I think that is an insult to something we are already doing and are very proud of, and something where we differ from western countries.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I just want to call the attention of Commissioner Tan, that in the proposed Article on Family Life there is an explicit provision wherein we will give attention and care for our elderly in the Filipino tradition.

SR. TAN. Yes, I agree with the Gentleman.

MR. MONSOD. Thank you.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. This Section 13 is another provision which starts with the clause "The State shall," and then it mentions three verbs – "establish, maintain and secure," followed by "adequate social services." This is all very broad and comprehensive. Is this concept not already included in our Constitution that we have to repeat it in the Declaration of Principles? Moreover, with regard to "social services," we have many provisions on this, especially on social justice. How do we expect the State to establish, maintain and secure social services within the entire framework of government for the purpose of not only protecting human rights, but also extending social services to all our people? I think this is unnecessary, and it may be entertained for deletion.

THE PRESIDENT. Is there a proposed amendment of Vice-President Padilla which will supersede the amendment of Commissioner Monsod?

MR. PADILLA. Madam President, I said in my last statement that this can be considered for deletion and then, I would proceed to move for the deletion of the entire section.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I am willing to accept that proposed amendment. I have a suggestion. Can we transpose the words "social services" to Section 8 where we talk about "social justice" so that we can just say "SOCIAL JUSTICE AND SOCIAL SERVICES," and then eliminate the whole paragraph?

MR. PADILLA. I have no objection to the suggestion of Commissioner Monsod.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. May we, therefore, decide now on the motion of Commissioner Padilla to delete. If that is approved, then we can move on to Commissioner Monsod's suggestion to include "social services" in Section 8.

THE PRESIDENT. Does Commissioner Padilla insist on his motion to delete?

MR. PADILLA. Yes, Madam President.

THE PRESIDENT. So what we have now before the body is the proposed amendment of Commissioner Padilla to delete the entire Section 13 on the ground that it is covered already by other provisions in the Constitution.

Are we now ready to vote? The Chair wishes to advise the chairman that there is a pending motion before the body. So let us vote on whether to delete or not. If it loses, then we can reformulate Section 13.

MR. TINGSON. Thank you, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of the proposed deletion of the entire Section 13, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 19 votes in favor and 16 against; the amendment is approved.

SUSPENSION OF SESSION

MR. MONSOD. Madam President, may we have one minute because we want to reinsert this in another section.

THE PRESIDENT. The session is suspended.

It was 10:53 a.m.

RESUMPTION OF SESSION

At 10:57 a.m., the session was resumed.

THE PRESIDENT. The session is resumed.

May I ask the chairman what happens now to Section 13?

MR. TINGSON. Madam President, we ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. We would like to seek the guidance of the Chair because what we are going to propose is an amendment to insert the following phrase in Section 7: "PROVIDE ADEQUATE SOCIAL SERVICES." Section 7, as amended, would read as follows: "THE STATE SHALL PROMOTE A JUST AND DYNAMIC SOCIAL ORDER that will ensure the PROSPERITY AND independence of the nation and FREE the people FROM POVERTY THROUGH POLICIES THAT PROVIDE ADEQUATE SOCIAL SERVICES, PROMOTE full employment, a RISING STANDARD of living AND AN IMPROVED QUALITY OF LIFE FOR ALL." That seems to be the only place where it might fit, Madam President.

THE PRESIDENT. What does the committee say?

MS. ROSARIO BRAID. Yes, we accept, Madam President. The phrase will be "PROVIDE ADEQUATE SOCIAL SERVICES" after the words "policies that."

THE PRESIDENT. Will there have to be a motion for reconsideration?

MR. MONSOD. It may have to be that, Madam President, because we have already approved Section 7.

THE PRESIDENT. May we ask Commissioner Monsod to formally submit his motion.

MR. MONSOD. I move that we reconsider Section 7 in order to insert the phrase "PROVIDE ADEQUATE SOCIAL SERVICES" between the words "that" and "promote."

THE PRESIDENT. Is there any objection to the motion to reconsider Section 7 which was approved last Saturday for the purpose stated by Commissioner Monsod? *(Silence)* The Chair hears none; Section 7 is reopened for the purpose indicated.

Is the committee accepting the proposal?

MS. ROSARIO BRAID. Yes, Madam President.

MR. TINGSON. We are accepting the proposal, Madam President, and Section 7 is now proposed to read as follows: "THE STATE SHALL PROMOTE A JUST AND DYNAMIC SOCIAL ORDER that will ensure the PROSPERITY AND independence of the nation and FREE the people FROM POVERTY THROUGH POLICIES THAT PROVIDE ADEQUATE SOCIAL SERVICES, PROMOTE full employment, a RISING STANDARD of living AND AN IMPROVED QUALITY OF LIFE FOR ALL."

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Can we not say "MAXIMUM employment" instead of "full employment"?

MS. ROSARIO BRAID. That will mean a reopening of the amendment we have approved. We only reopened for the insertion.

MR. PADILLA. Yes, but once it is reopened, it should be reopened. That is just a suggestion; instead of "full employment," we say "MAXIMUM employment."

MR. VILLEGAS. Madam President.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. Just a matter of information for Commissioner Padilla.

In the field of economics, "full employment" is usually defined as attainable employment which tolerates a certain level of understandable unemployment because of changes of jobs, because of the need for training. So, "full employment" is not really in a perfect employment.

MR. PADILLA. With that explanation of the term "full employment" I will not insist on my amendment.

VOTING

THE PRESIDENT. As many as are in favor of Section 7, as now formulated, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 31 votes in favor and none against; Section 7, as now formulated, is approved.

MR. TINGSON. Madam President, with the presence now of Commissioner Aquino, may we ask that she be recognized in connection with Section 11.

MS. AQUINO. Madam President, the women section in the committee, with the conformity of the men and the Madam President, is proposing a committee amendment to Section 11, such that Section 11 will now read: "The State recognizes the role and participation of women in nation-building and shall ensure the EQUAL rightS of women with men in all spheres of economic, political, civic, social and cultural life, including family life."

MR. ROMULO. Madam President, may I ask a few questions?

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Does this mean that the Civil Code will be automatically amended?

MS. AQUINO. The women section in this committee sympathizes with the insecurity of the men, should that be the intended effect. And we likewise do not intend to cause a massive dislocation in our Civil Code and in the civil law jurisprudence. Therefore, the committee intends that this amendment or this section should give impetus for the amendatory process done through statutes.

MR. ROMULO. In the amendatory process in accordance with legislative procedures, does this article mean that when a choice has to be made, the choice cannot be lodged by the law in the husband? I will give a concrete example with regard to residence. Under the present Civil Code, it is the husband who establishes residence. Suppose my wife insists on living in Cebu. In the process of amending that portion of the Civil Code, does this constitutional mandate prohibit Congress from allowing the husband to make such a choice?

MS. AQUINO. We will reiterate the committee interpretation of Section 11 as articulated by Commissioner Azcuna: The provision intends that in situations where sex is not a relevant factor in the determination of rights and duties of citizens, then it should be disregarded. In the context of equality in fact and in law, sex where it is irrelevant should not be considered in the determination of rights and duties.

MR. ROMULO. It establishes the principle of non-sexism. Is that right?

MS. AQUINO. In effect, yes.

MR. ROMULO. Thank you.

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, does this Section 11 give credence and meaning and recognition to Filipino customs and values on family life?

MS. AQUINO. Yes, of course, Madam President.

MR. BENGZON. Therefore, in the event of a conflict between Filipino customs and values and this provision, which would prevail?

MS. AQUINO. It is axiomatic in the interpretation of laws that the courts take judicial recognition of customary law. However, in the drafting of laws and statutes, this judicial recognition does not necessarily mean affirmation, although it does not also necessarily mean that one will contravene customs and traditions.

MR. BENGZON. So, when Congress takes that step to give flesh to Section 11, Section 11 does not necessarily mean that Congress could totally ignore cultural ties or the Filipino culture insofar as this section on Philippine life is concerned.

MS. AQUINO. Yes.

FR. BERNAS. Madam President.

THE PRESIDENT. Commissioner Bernas is recognized.

FR. BERNAS. In the phrase "shall insure the right of women . . ."

MS. AQUINO. No, it should read: "insure the EQUAL rightS of women with men."

FR. BERNAS. I see. I was going to ask if the word "equal" was deliberately omitted.

MS. AQUINO. It was an unintended omission.

FR. BERNAS. Going back to Commissioner Aquino's answer to Commissioner Romulo that this does not amend the Civil Code but merely starts the process of amending, is it not a matter of fact that when a subsequent provision of the Constitution becomes inconsistent with existing civil law provisions or even criminal law provisions, the Constitution amends such provisions?

MS. AQUINO. We know that as a matter of an academic position. However, we are aware that the process of transition to a new set of laws on the rights of women would require the amendatory process in the legislature.

FR. BERNAS. Let me be more specific. In the civil law provision now on legal separation, the grounds for legal separation are adultery on the part of the wife and concubinage on the part of the husband. What effect would this provision have on pending cases for legal separation? What effect would this have on prospective cases for legal separation? Can the woman opposing the legal separation now say: "There is no ground for legal separation because what we had has been rendered unconstitutional by the new provision"?

MS. AQUINO. Madam President, even before we are to adopt this provision, the Civil Code Revision Project of the UP Law Center of which our Secretary-General Romero is a member, is actually implementing this new provision as intended by Section 11. It might appear, therefore, that in the absence of a statutory implementation of Section 11, which, however, is already being intended in the Civil Code Revision Project, the laws in the Civil Code now where they stand may be in a period of suspended animation. I would think, however, that on the matters of deciding on pending cases, the Civil Code would have to yield to the provision of the Constitution. And pursuant to this mandate, even without a statutory implementation, the courts can evolve the new jurisprudence informally with this new provision.

FR. BERNAS. The Civil Code will have to yield to the Constitution?

MS. AQUINO. Yes.

FR. BERNAS. And since it is only a project which is not yet a law, as soon as this is approved, there would be no law on legal separation.

MS. AQUINO. No. Our position is this: In the hierarchy of legal values, the constitutional mandate takes precedence over statutes. And the absence of a statutory implementation notwithstanding, the intention of Section 11 should take precedence without precluding specific statutory implementation which will amend the Civil Code.

FR. BERNAS. So, the intention, therefore, is not to automatically amend but merely to authorize amendment.

MS. AQUINO. It would not be an *ipso facto* amendment.

FR. BERNAS. Not *ipso facto* amendment?

MS. AQUINO. Yes.

FR. BERNAS. But suppose nothing is done for five years?

MS. AQUINO. We are very positive in anticipation that the Civil Code Revision Project will, by itself, provide enough ground for the amendment of the Civil Code. The Civil Code Revision Project has, in fact, been active over the past five years.

FR. BERNAS. My problem is that a mere intent unspecified in a constitutional provision and an intent which runs contrary to the letter is not just a vagueness in the letter. The letter would have to prevail over whatever unexpressed intent there is since the letter is clear. The letter expresses equal protection and every inequality in existing laws must yield to this.

MS. AQUINO. The problem is that if we provide for an *ipso facto* amendment of the Civil Code, particularly pertaining to the laws on personal and family relations, the determination of the rights and duties pertaining thereto carries with it intricate details which could not proceed from a vacuum if we say that *ipso facto* the provisions in the Civil Code are repealed. There would have to be a semblance of standards.

FR. BERNAS. In such a case, I would propose an amendment, some kind of a transitory amendment, to make things clear. It will say something to this effect: That pending the enactment of new laws on this subject, existing laws shall continue. That expresses the Commissioner's intent and that will save the Supreme Court the problem of trying to reconcile two things which are diametrically opposed.

MS. AQUINO. Would that be necessary considering that it is already clearly intended in the provision?

FR. BERNAS. To my mind, it would be necessary because we appeal to the records only when the letter is unclear. Since the letter is very clear, then whatever is said in the debate will have to yield to the letter.

MS. AQUINO. The committee is willing to accommodate the amendment, if we will be convinced that such will be necessary.

FR. BERNAS. I am convinced it is necessary, although I would not be against *ipso facto* abolition of existing inequities.

MS. AQUINO. We are apprehensive of a position which would adopt an *ipso facto* amendment because it will cause a massive dislocation in civil law and the jurisprudence.

FR. BERNAS. Therefore, I recommend some kind of a transitory provision.

MS. AQUINO. Yes. We are willing to accommodate that.

MR. NOLLEDO. Madam President.

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. I would like to ask Commissioner Aquino some questions. Is it not true that the custom must never be contrary to the Constitution or existing law? That is a basic provision of the Civil Code.

MS. AQUINO. We understand that. But there is no Filipino custom that mandates the inequality of men with women. In other words, we do not foresee that fine morning when one will wake up with his wife telling him that he cannot do this or that because that is by law provided in the Constitution or in any congressional statute.

MR. NOLLEDO. I have my misgivings about this proposed provision, Madam President. It might cause some social upheaval in Muslim Mindanao. Among Muslims, husbands cannot get more than four wives, but the wives are not given this privilege. I understand from my Muslim brothers that as far as Muslims are concerned, male Muslims consider women inferior to them.

MS. AQUINO. I think the fear of Commissioner Nolledo is more apparent than real because as far as Muslim culture is concerned, we know that even the Civil Code would yield to the Muslim laws on personal and family relations. Shari'a courts apply the Muslim Code.

MR. NOLLEDO. Yes, there is another civil code for Muslims which recognizes their customs and traditions.

MS. AQUINO. Yes.

MR. NOLLEDO. I was thinking that this provision might automatically amend the provisions of the Muslim personal law, because Muslim women will then claim their equal rights with Muslim men and Muslim men will not surrender their rights.

MS. AQUINO. I would like to assure Commissioner Nolledo that this does not intend to affect the distinctive character of cultural groups, particularly the Muslim people who have adopted their own civil code pertaining to their personal and family relations.

MR. NOLLEDO. Based on this provision of the Civil Code, there is a provision that the husband is the administrator of the conjugal regime. Under this provision, can the wife now claim joint administration with the husband?

MS. AQUINO. Yes. Ideally, the statutory implementation of this provision, as far as administration of the conjugal property is concerned, should pertain to joint administration between husband and wife. The present status of the Civil Code would give only to the wife or transfer only to the wife . . . .

MR. NOLLEDO. The right to object.

MS. AQUINO. Yes. First, the right to object, when the administration has been known to be contrary to the family interests, and when the husband is mismanaging the property of the conjugal partnership.

MR. NOLLEDO. Under the Civil Code, the wife can exercise any profession or engage in any kind of business, subject to the right of the husband to object. Would the Commissioner now say that if we approve this provision, the wife is absolutely free to engage in any kind of business or exercise her profession without any objection from the husband?

MS. AQUINO. First, our position is that the equality of the rights of men with women is not absolute equality, or we do not contemplate it in terms of absolute likeness. We have to yield, therefore, to the requirements of the best interests of the family, which should not necessarily be interpreted as sublimating the interest and the rights of women.

MR. NOLLEDO. With respect to marriageable age, the marriageable age of a man is different from the marriageable age of the woman.

MS. AQUINO. Fourteen for the woman.

MR. NOLLEDO. Would the Commissioner say that the marriageable age should now be at par with each other, meaning, equal?

MS. AQUINO. In fact, if there is any group that should object to the statutory provisions on marriageable age, it is not the women but the men because the provision on marriageable age would seem to say that the level of maturity of the men does not come at par with the maturity of the women, notwithstanding similarity of age. For a valid marriage, a woman should be 14 while the man should be 16.

MR. NOLLEDO. Is Commissioner Aquino not willing to entertain an amendment and concentrate the equality between men and women in civil and political life of the nation, rather than involve the social life?

MS. AQUINO. I beg the pardon of Commissioner Nolledo.

MR. NOLLEDO. What I mean is that the equality between men and women should specifically cover the political life and civil life, without including social life because we will be adversely affecting a lot of different customs and traditions of the indigenous communities. Would the Commissioner reconcile this provision with the constitutional provision that the State shall respect the customs and traditions of indigenous communities?

MS. AQUINO. Of course. There is no intention to contravene the provisions on customary laws, especially with reference to indigenous communities.

MR. NOLLEDO. Thank you.

MS. AQUINO. But I cannot agree to limiting the provisions on equality to political and civil life; social life after all comprehends civil and political life.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. The Civil Code of the Philippines is a statutory enactment by Congress patterned after the Civil Code of Spain, with certain amendments, particularly the paraphernal law. The Penal Code has been a statutory enactment since 1932 and may be subject to improvement or revision also by the Congress.

If this provision would entail the present or the enforced amendments of the Civil Code by a constitutional provision, I am totally against it, Madam President. First of all, there is a wrong presumption that the Civil Code is in favor of husbands and fathers of families and against wives and mothers of families. For example, the husband chooses the family residence; the husband is the administrator of the conjugal properties; the wife may engage in any profession with the consent of the husband; the wife cannot accept a donation from a stranger without the consent of the husband. All these are good provisions that are intended to preserve the unity and solidarity of the family.

There is nothing wrong in our Civil Code that is unduly favoring the husband as against the wife. As a matter of fact, the wife in good families exercises tremendous influence even over her husband.

Mention is made in the Penal Code of adultery and concubinage based on human nature because the infidelity of the wife – even if it be one intercourse with a stranger who is not her husband – may give occasion to conception and the introduction of a spurious child within the legitimate family. The problem is that when a mother delivers a child during the coverture with her husband, said child is conclusively presumed to be legitimate, and yet that child may be the product of illegitimate intercourse by the wife with a man other than her husband.

On the other hand – it is not to justify, much less encourage, the infidelity of the husband – if the husband commits some indiscretion and has intercourse with a woman other than his wife, there is no danger, as far as the husband is concerned, because the possibility of pregnancy by the woman and her delivery of a child–especially because we must preserve the child or even the unborn from its conception – does not disturb the integrity and the harmony within the legitimate family.

So, I do not understand, Madam President, why the feminist movement always wants to stress that there are inequities or inequalities in the provisions of the Civil Code and the Penal Code regarding family relations.

I think I should move for the deletion of this entire section.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, the self-sacrifice of the women who comprise half of the population is almost legendary. It would be a tragic aggravation if we will gloss over that problem and institutionalize their powerlessness and their destitution. I would like to invite the attention of Commissioner Padilla to particular provisions of the Civil Code, and then I would leave to him the discomfort of making a reassessment of his judgment on the Civil Code.

The intention of the provision in Section 11 calls to mind the need, for example, to amend Article 110 of the Civil Code, which gives to the husband the sole prerogative to choose the family residence, in such a way as to make this a matter for both husband and wife to determine with the best interest of the family, in due consideration of the manifestation of Commissioner Nolledo, as the deciding factor.

We invite the attention of the Commissioner to the provisions of Article 114 of the Civil Code which prohibit the wife from acquiring any property by gratuitous title, except from her ascendants, descendants, parents-in-law and collateral relatives within the fourth civil degree. And there is no such prohibition imposed on the husband. Effectively, that would mean that I cannot give a gift to the wife of Commissioner Padilla, without the consent of Commissioner Padilla.

I would like to invite his attention to the provisions of Articles 165 to 168 of the Civil Code in regard to the administration of the conjugal partnership, which vests the power of administration automatically in the husband when, in actuality, the Filipino woman has proven herself to be competent in managing the affairs of the conjugal partnership.

I would like him to reexamine the import of the legal dictate of Article 111 of the Civil Code which says that the husband is responsible for the support of the wife and the rest of the family. While on the other hand, Article 115 says that the wife manages the affairs of the household. The import of this provision is that the paramount destiny and the mission of the women in the country and in the population is just to fulfill the benign offices of wife and mother.

I would like to call Commissioner Padilla's attention to the legal requirements of Article 84 of the Civil Code about a widow having to wait 300 days before she can be issued a license to a new marriage when, as opined by some of the scholars, the issuance of a medical certificate to the effect that the applicant is not pregnant would be sufficient precaution against the possibility of introducing a spurious child to the line of the family.

I would like to call the Commissioner's attention to Article 17 of the Child and Youth Welfare Code withdrawing from a widow, who remarries, parental authority over her children, where no such inhibition exists upon the widower. Then, of course, we have the problem of citizenship; we have the problem of the inadequacy of our existing laws on annulment and legal separation.

This is an attempt to just go over some of the major provisions; this is not even an exhaustive enumeration. But these are the major points on this matter.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Madam President, I yield to Commissioner Villacorta for a while.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Madam President, it seems that the prevailing assumption suffices that equality of women is contrary to Filipino customs and values. The contrary is what really exists or what has really existed.

If we go as far back as precolonial times, our historians and anthropologists tell us that women have always had high status in precolonial Philippine society. We had female rulers; the preferred priests or the *babaylans* were mostly women, and even among existent indigenous communities, women have as much share as the men in terms of responsibility, work and in terms of opportunity. I wish that Commissioner Bennagen were here to confirm that. It was also mentioned that when it came to the management of household and certain family businesses, women play a very active and important role.

So, therefore, it is not really true that in our culture, women have a subordinate role and this was confirmed by Commissioner Padilla when he spoke about assertion of women's equality even in the Civil Code which was heavily influenced by Spanish culture. Japan, where women have traditionally been subservient to men, has in its constitution a clear provision that there shall be no discrimination on the basis of gender, and the equal rights of women have always been asserted in Japanese laws. In Philippine culture, while equality of women is affirmed, the identicality of women in relation to men is, of course, not accepted. And as Commissioner Aquino has said, equality is not the same as identicality, that differences between women and men, biological or otherwise, are acknowledged in our culture but the equal rights, as well as equal duties of women are accepted. I think this very quality of our society is one of the major sources of the strength of the fiber of Philippine society and culture. When we speak of equality of women in economic life, we are referring to the fact that women and men shall have equal rights to be gainfully employed; shall receive the same wages for the same type of work; that women shall not be denied the employment on the basis of their gender, age or civil status; that women shall have equal opportunities for promotion and professional development; and that marriage shall not affect the rights of women to own and control their own properties, to freely engage in commerce or industry, to practice any profession, trade or craft or to use as they please the proceeds of their labor.

THE PRESIDENT. I am sorry I have to interrupt the Commissioner. Will he just finish his statement?

MR. VILLACORTA. Yes, Madam President.

On family life, marriage shall be based on free and mutual consent; equality of both spouses and that properties bought or awarded for the benefit and welfare of the entire family shall be in the name of both spouses. Management and disposal of such must be by the mutual determination of both spouses.

Thank you, Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Madam President.

May we address a few questions to the Honorable Aquino. I can detect that there is some agitation among the male population in this Commission with her proposal. So may we try to quiet their fears?

There are procedural and substantive problems. Let us go to the procedural problems because under the Rules of Court a wife cannot sue without joining the husband. Under the Commissioner's proposal, I suppose this situation would have to be affected; meaning, that now a wife can sue without joining the husband and correspondingly the defendant can file a counterclaim against the wife without joining the husband either. Is my understanding correct, if we fully implement the thinking spelled out in the Commissioner's proposal?

MS. AQUINO. Yes, Madam President.

MS. SUAREZ. Let us go to the substantive problems. Referring to the provisions on the Civil Code, as the Commissioner pointed out correctly, the wife is not presently the administrator nor the coadministrator of the conjugal partnership. It is the husband alone. Under the proposal of Commissioner Bernas, maybe there could be some kind of a transitory provision to cover that situation, Madam President. Does the Commissioner agree?

Let me go to the definition of the word "rights." It usually connotes something by way of obligation. In other words, there is an equal right and there is an equal obligation. So if we are going to fully implement this, the wife would now be under legal obligation to maintain and support the family.

MS. AQUINO. Yes, Madam President.

MR. SUAREZ. And if I were a Juan Tamad, I could compel my wife to take care of the family. I could tell her: "You go to market; you go to office; you support me because we have an equal right in maintaining the family." Is that within the contemplation of this provision, Madam President?

MS. AQUINO. Rights necessarily carry with them duties and obligations but in the realm of possibilities and in the context of settled customs, that example may be a bit absurd.

MR. SUAREZ. Meaning, the example I gave will not be all that ridiculous, if we are going to implement this thinking that a right connotes an obligation. Therefore, when we speak in terms of supporting the family, it is not only the husband but also the wife who would be under obligation to support the family. She has equal right to the properties. This concept may destroy the conjugality in property ownership. Are we going to carry it to that logical extreme or conclusion?

MS. AQUINO. I do not see how it will destroy the concept of conjugality in the property ownership between husband and wife. In fact, as it is intended, Section 11 would, in effect, say that the wife is a coadministrator of the conjugal property.

MR. SUAREZ. Going back to the obligation to support the family, that would include the obligation on the part of the wife to support the children. The children could, therefore, file for support under this proposal. Would it contemplate a situation where even the children could file a claim for support against the mother, not necessarily against the father?

MS. AQUINO. Yes, Madam President.

MR. SUAREZ. In other words, they have that option?

MS. AQUINO. But the problem is this: We know that in jurisprudence, an action for support proceeds either from the wife who has been abandoned by the husband or, in all instances, from the child, filed jointly with the mother as a coparty litigant because understandably the child is a minor. The Civil Code provides that upon the age of maturity, when the child is possessed of the full faculties of human activity, he is not entitled to support.

THE PRESIDENT. Does Commissioner Suarez desire to ask for an extension of time because his time has already expired?

MR. SUAREZ. Only one more point, Madam President, regarding the matter of parental support and custody.

THE PRESIDENT. The Commissioner will please proceed.

MR. SUAREZ. So, if the children are entitled to parental support and custody, they have the option of choosing whether it is the father or the mother who will be obligated to put them in their custody or give them support?

MS. AQUINO. Yes. This would, in effect, amend the Child and Youth Welfare Code, P.D. No. 603, which says that the child remains with the mother until the age of 7.

MR. SUAREZ. So, the Commissioner would have no intention of limiting the equality of rights to, as correctly pointed out by Commissioner Nolledo, civil and political exercises?

MS. AQUINO. That would smack of a certain measure of mental dishonesty. We know that civil and political rights are part and parcel of social life. If we can be so liberal with a gush as to say that we will grant equal rights to women with men, why do we have to hold back and, on the basis of a strained explanation, say that we will limit this only to civil and political rights?

MR. SUAREZ. I thank the Commissioner for the clarification.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. My question is based on the provisions of the Revised Penal Code on marital infidelity. There are two kinds of crimes under this heading in the Revised Penal Code – one for men and one for women. In the case of men, the crime punishable is called "concubinage," which means there is no crime unless the husband cohabits with another woman, does it under scandalous circumstances, or keeps a woman in the conjugal home. In the case of the wife, however, one act of infidelity, one sexual intercourse with another man is "adultery." The women consider this unequal. If we are to equalize this, would the Commissioner want the women to be equal to men so that wives will not be guilty of any crime under marital infidelity unless they keep their paramours in the conjugal home, cohabit with them, or do their indiscretions under scandalous circumstances? Or, if the Commissioner wants the men to be equal to women, would she penalize a husband, imprison him, for just one act of indiscretion?

MS. AQUINO. The first part of the question is what actually exists now. The evidentiary burden, to be able to establish a crime of concubinage, would have to fall squarely with the requirements of the definition of concubinage which means, as the Commissioner has mentioned, putting up a concubine in the conjugal home, conducting sexual intercourse in scandalous circumstances, as against infidelity which would make a woman punishable for every single sexual act outside of the marital bed.

MR. RODRIGO. Yes. As explained by Commissioner Padilla, the reason for this is that in the case of a wife, a spurious child may be introduced into the family, and legally presumed conclusively to be the child of the poor husband. If we are going to equalize, how are we going to equalize this crime on marital infidelity for men and women? May I ask again: Should we penalize a husband, send him to jail, for just one act of sexual intercourse, like adultery now? Or, should it be the other way around? Should we not penalize the wife for a single act of sexual intercourse with another man, but only penalize her if she cohabits with another man, does her acts of infidelity under scandalous circumstances, or keeps a paramour in the conjugal home?

MS. AQUINO. First, the fear of the law is unmasked in providing that infidelity is just as much a grave act as concubinage. Just by one act of a sexual liaison outside the marital bed is justified. This kind of a conclusion inheres and is attendant to the biological difference between a man and a woman for, after all, it remains unchallenged that still the woman has the monopoly of child-bearing. However, on the possibility of interpreting the difference between proving adultery and concubinage and infusing equality, I am not, for the moment, prepared to come out with a configuration of equality except in terms of evidentiary burden.

MR. RODRIGO. That is what worries us men. We do not know how this is going to be equalized.

I thank the Commissioner very much, Madam President.

MR. COLAYCO. Madam President, may I have the floor?

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. I think everybody recognizes that in the Philippines the husbands always consult their wives on all matters of family importance, even in business. As a matter of fact, some are even henpecks. I am serious in saying this because I believe there is no need for this provision. In actual practice, the equality of women has been recognized in our economic, political, civic, social and cultural life. Although it is true that some of the provisions in our laws may be considered disadvantageous to the women, all these are not observed nor even demanded by the husbands. Proof of this is that our President now is a woman; the President of our Commission is a woman; and the women have excelled men in business. Most or many big businesses in our country are founded and managed by women. I believe that although it may be admitted that probably some of our laws are disadvantageous to the women, if we insist on this, it may cause even some disagreement among the couples now. For this reason, I take the view of those of us who have given their reasons for not approving this provision in our Constitution.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. I would admit to a certain measure of truth in the manifestation of Commissioner Colayco, but that would pertain only to the women who have achieved a certain measure of education and, therefore, the opportunities for career and social mobility are infinite. That would pertain only to the views of the middle- and upper-middle-class husbands, the Commissioners' wives, children and sisters. What of the bigger bulk of the women population who are in the provinces, in the rural areas? The concept of women inequality partakes of two fronts – inequality that is attendant to and inheres in the social class to which the woman belongs, for example, a woman who belongs to a peasant family; and the gender oppression, which is the inequality that pertains to the woman arising from her sexual biologically determined factors. In this context, we refer to this as the double oppression of women.

MR. COLAYCO. I beg to disagree with that view, Madam President. Even among the poor classes – and I have had occasion to deal with these people – the inherent respect which Filipino people have for the women is always there. There may be some exceptions. The Commissioner may have heard about men who get drunk and when they go home, they beat their wives. These are very, very few exceptions and I can assure the Commissioner.

MR. OPLE. Madam President.

MR. COLAYCO. Just one more minute, Madam President.

THE PRESIDENT. The three minutes of the Commissioner is already over, unless he would ask for an extension of time.

MR. COLAYCO. I do not want to make an exception, Madam President.

THE PRESIDENT. Thank you. Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Aquino yield to a question.

MS. AQUINO. Willingly, Madam President.

MR. OPLE. This concerns the equal rights of women with men in Section 11 which states: ". . . in all spheres of economic, political, civic, social and cultural life, including family life." I am reminded of a basic rule in management; that is, when a rule works, it is not to be changed. Is there a perceptible state of rebellion among the women of the Philippines against the Civil Code, especially its parts pertaining to family life so that Section 11 becomes an urgent response to this state of revolt against an oppressive and unacceptable legal system in the Civil Code applying to Filipino family life?

MS. AQUINO. I would like to assure Commissioner Ople that there is a great deal of consciousness on the matter which, unfortunately, has not attained to the level of a revolt. But let me cite as example the mushrooming of women organizations in Davao where there are about 120 and in Manila. We are now witnesses to the distinct pattern of class-based women grouping together in women's organizations.

MR. OPLE. Are they protesting the Civil Code in particular, Madam President?

MS. AQUINO. Yes, Madam President.

MR. OPLE. It is very strange that this rebellion of women's groups focused on the family provisions of the Civil Code had not come to our attention until this morning. I know that there are women groups fighting for equality in all fields, especially for representation in the economic and political spheres. But I did not know that this is one of the great issues that have inspired their existence and have agitated them.

MS. AQUINO. Earlier, I have made a distinction between the two classes of oppression that are made to bear upon women. First, the oppression arising from their being a member of a social class which would pertain, therefore, to economic and political issues. Second, the oppression arising from gender we would call gender oppression. A lot of women organizations that had mushroomed during martial law and the dark days after the lifting of martial law have united. It is a unity borne out of a struggle against the Marcos dictatorship. That was essentially the imprint of the social class oppression of women, and along with it the development of the feminist aspect of the women's equality movement.

MR. OPLE. I see. In the economic field, I can agree with the proponent. I see, for example, that 70 percent of all our postgraduate enrolment consists of women but only about 1 percent of the higher administrative and managerial posts in this country are held by women. So there is a wide gap between training and the actual opportunity received. But in the matter of family life, I am beginning to fear in this section an organized invasion into my own privacy and that of my family. I do not know if so many other families will share this.

THE PRESIDENT. The time of Commissioner Ople has expired, unless he wants to have an extension of one minute.

MR. OPLE. May I wind up with a closing sentence, Madam President.

THE PRESIDENT. The Commissioner will please do so.

MR. OPLE. Lacking the opportunity to debate on what now seems to be a revolutionary and momentous issue with potential unsettling impact on the tranquility and peace of all the families in the Philippines, I would like to reserve my opposition to this section at the proper time, Madam President.

Thank you.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. May we request a continuing suspension of the three-minute rule considering that the issues under discussion are of momentous significance to 48 families represented by the 48 Commissioners in the Commission, of course, not including the 52 million other Filipinos outside the halls of this Assembly.

THE PRESIDENT. Yes. But the three minutes has been quite fruitful. I think we have had enough ideas. It is just a question of repeating and repeating the same story.

MR GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Madam President.

The proposed Section 11 has two parts. One states: "The State recognizes the role and participation of women in nation-building." And I have not heard any word of objection regarding this part. The second part says:

> . . . and shall ensure the right of women to equal protection with men in all spheres of economic, political, civic, social and cultural life, including family life.

My question, Madam President, is: Is this rule supposed to be envisioned to be a hard-and-fast rule or an absolute rule, especially in view of the manifestations made by the honorable Commissioners, particularly Commissioners Padilla and Rodrigo, who talked about the possible introduction of a spurious child into the family?

THE PRESIDENT. May we know the answer of Commissioner Aquino.

MS. AQUINO. Madam President, Section 11 is a constitutional provision that seeks to recognize in law and in fact the equality of women with men.

MR. GUINGONA. Is it supposed to be an absolute rule or would it admit of exceptions?

MS. AQUINO. No, I have manifested earlier that we do not speak of absolute equality or likeness, precisely because of the necessity of recognizing biologically determined differences.

MR. GUINGONA. So there could be exceptions?

MS. AQUINO. Yes, of course, there are.

MR. GUINGONA. Who would determine the exceptions?

MS. AQUINO. It is not a question of who would determine the exceptions because it is axiomatic that there is biologically determined difference between man and woman. For so long as this difference is relevant in the determination of rights and duties, then we have to yield to that.

MR. GUINGONA. Yes, but who would determine, therefore, the relevancy? I mean, this is a general statement. There must be some specifics.

MS. AQUINO. The constitutional mandate cannot exist in a vacuum. It could only be given flesh by statutory implementation and by the customs of the society.

MR. GUINGONA. Would there be any objection if we introduce, for example, the expression "AS MAY BE PROVIDED BY LAW"?

MS. AQUINO. How would the provision read now?

MR. GUINGONA. The provision would now read as follows: "IT shall ensure the EQUAL right OF women with men in all spheres of economic, political, civic, social and cultural life, including family life AS MAY BE PROVIDED BY LAW." By the expression "AS MAY BE PROVIDED BY LAW," we are talking about the exceptions, the few exceptions that the Commissioner has admitted may occur.

MS. AQUINO. I have to disagree to the addition of the clause "AS MAY BE PROVIDED BY LAW" because it will diminish the intent and meaning of the section. When you say "you recognize," you do not have to wait for a law which will recognize the equality of the rights between men and women.

MR. GUINGONA. I thank the Commissioner, Madam President.

THE PRESIDENT. Commissioner Villegas is recognized.

MR. VILLEGAS. Madam President, just a few observations. As a student of economic development in this country over the last 20 years, I have gathered enough empirical evidence that the Philippines is basically a matriarchal society. The women have definitely had prominence in economic life. They are usually the ones who start entrepreneurial enterprises. The only areas where men predominate are in the professional fields. Even in the running of family finances, women are unique in the world, together with another community in Sumatra, where very important decisions in financial matters are usually left to the women. There is what we call "entrega," a Spanish word, which means total surrender of the salaries of the husband to the wife and the wife, literally, has a monopoly of deciding how to make use of these funds. So even the statistics cited by Commissioner Ople attest to the fact that in education the women, especially in rural life, have always been preferred over the men. If there is a decision on whom to send to further schooling, for example, to a university, it is always the daughters who are given preference. This explains the fact that the Philippines is also unique in the world in having 60 percent of its university enrolment and 70 percent of graduates accounted for by women. Even the United States does not have such a bias in favor of women. So I am sure Commissioner Aquino will forgive me if I say that the way this section stands now, it smacks of colonial mentality, borrowing from the feminists movement in the U.S. I think it does not apply at all to Philippine culture. I would be happier if the section reads as follows: "The State recognizes the role and participation of women in nation-building and shall ensure the FULL USE OF THEIR RIGHTS in all spheres of economic, political, civic, social and cultural life, including family life." I do admit that in a few exceptional cases already enumerated by Commissioner Aquino, there are certain obstacles to the full use of rights by women. So this is the way I would suggest the section will read.

Thank you, Madam President.

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. I have a proposed amendment, Madam President, which might reconcile the different views. Instead of "EQUAL right of women with men," I propose that we say: "shall ensure the FUNDAMENTAL EQUALITY BEFORE THE LAW of women with men in all spheres." So we again go back to "equal protection," because equality before the law means "equal protection."

THE PRESIDENT. What does the committee say? Does Commissioner Aquino need time to study it?

MS. AQUINO. We have initially agreed, Madam President, in conference with Commissioner Azcuna, to accept the amendment.

MR. TINGSON. Madam President, the Commissioner is a member of the committee, so we are accepting that as a committee amendment.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Madam President, may I suggest another formulation for consideration, which is, after "shall," add "BY LAW REMOVE ANY DISCRIMINATION AGAINST WOMEN BY REASON OF SEX."

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 12:02 p.m.

RESUMPTION OF SESSION

At 12:09 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MS. AQUINO. Madam President, may we request the recognition of Commissioner Azcuna who will present the combined formulation of the Azcuna-Rodrigo committee amendments.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Thank you, Madam President. This is a joint formulation by Commissioners Romulo, Villacorta, Ople, Guingona, Monsod, Maambong and myself.

It would read as follows: "The State recognizes the role and participation of women in nation-building and shall ensure the FUNDAMENTAL EQUALITY BEFORE THE LAW of women with men AND SHALL BY LAW REMOVE ANY DISCRIMINATION AGAINST WOMEN BY REASON OF SEX in all spheres of economic, political, civic, social and cultural life."

MS. AQUINO. So we delete "including family life."

MR. AZCUNA. Yes, we delete it.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I address one question to the proponent?

MR. AZCUNA. Willingly, Madam President.

MR. SARMIENTO. The Commissioner's amendment speaks of fundamental equality before the law of men and women. How is this different from the original formulation of the committee of equal rights of women with men?

MR. AZCUNA. The intention probably is the same. We just wanted to make it very clear that the equality we are speaking of here is not an identical set of rights, but rather equal protection before the law of rights which must spring from their dignity as persons – the fundamental equality of men and women. But it can admit of different treatment without violating the equality where the difference is based on rational, relevant or germane distinctions.

MR. SARMIENTO. I thank the Commissioner for that clarification.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. May we just ask some questions of the proponent?

MR. AZCUNA. Willingly, Madam President.

MS. QUESADA. Would this new formulation include, for example, certain school policies in the admission of students? As a concrete example, in the University of the Philippines' College of Medicine there is a discrimination between men and women applicants. Women are required to have a higher general weighted average of 1.5 versus 1.75 for men applicants.

MR. AZCUNA. This would include that type of discrimination.

MS. QUESADA. Would this also include the admission requirements for certain degree as in nursing, where there is discrimination against men applicants? Would this also be part of the intentions of this provisions?

MR. AZCUNA. Yes, that would also be, insofar as the relevances are disregarded.

MS. QUESADA. I thank the Commissioner.

MR. AZCUNA. According to Aristotle, and I quote:

> It is the highest inequality to treat the same things differently and to treat different things the same way.

MS. QUESADA. Still another clarification. We have been talking of equality before the law. But this is not really legislation but educational policies or orientations. For instance, in the offering of courses in schools like home economics, this is only offered to girls instead of girls and boys. The choices for physical education courses for men and women show discrimination that seems to highlight the difference between men and women or girls and boys. Would these discriminations be addressed in this formulation?

MR. AZCUNA. Yes, Madam President. And, precisely, the second portion of the amendment which was drawn up originally by Commissioner Romulo is an affirmative action provision which makes legal affirmative action correct past discriminations.

MS. QUESADA. Would that include some customs and traditions like the responsibility of girls and boys or men and women in relation to family life?

MR. AZCUNA. With regard to customs, we probably have to go a little slower because we also take into account local customs especially in indigenous culture. That is the reason we concentrate on fundamental equality. If they strike at the fundamental rights of a person, then even that custom should yield to equality.

MS. QUESADA. So this would have implications to our value orientation which need not be legislated but could be part of the thrust of this new orientation towards equality between men and women.

MR. AZCUNA. Yes, even schools, for example, in view of this new thrust can voluntarily start affirmative action. If they are challenged in court, the courts should sustain a voluntary affirmative action to remedy imbalances in violation of this equality.

MS. QUESADA. I thank the Commissioner for the clarification.

MS. ROSARIO BRAID. Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. May I just ask a few questions? Beyond affirmative action, would this provision provide the climate for the transformation of attitudes, such as, for instance, what are found in the mass media today and the world of symbols where women are always portrayed in terms of sexist themes, their attractiveness and of being fashion models rather than for the quality of their minds? Would this provision address itself to the need to erase stereotypes, like the perception that women are good for the kitchen or for the bedroom as our former dictator had said? Would this promote better communication between husband and wife, because rigidity in roles shall be slowly removed?

I think we are more concerned about the stereotypes that are with us. We hope that certain restructuring of the world of symbols around us, as well as of attitudes, could be done in order that we can promote improved communication based on equality. We cannot communicate if the other is less equal or inferior.

MR. AZCUNA. Yes, Madam President. It encompasses all that.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I just wanted to mention that in reply to the question of Commissioner Quesada about admission requirements, for example, in medical schools, I would not be very quick to say that all of those would be eliminated because sometimes there are rational bases for these. The statistical records show that a very high disproportionate number of women do not practice the profession after they graduate.

What I am only saying is that there should not be any categorical statement that that is wrong because we really do not know what is the basis of the policy. I agree with the formulation of Commissioner Azcuna, but I would not interpret very quickly that all of these things have no basis after this constitutional provision.

The other point I want to make is: Do we need to retain the words "and participation"? When we say "recognizes the role of women in nation-building," does that not already include the idea of participation and involvement?

THE PRESIDENT. What does Commissioner Aquino say?

MS. AQUINO. The committee is amenable to delete "and participation."

MR. AZCUNA. Yes, the committee is amenable to deleting it, so the provision will just read: "The State recognizes the role of women in nation-building. . ."

THE PRESIDENT. Commissioner Colayco is recognized.

MR. COLAYCO. Thank you, Madam President.

I would like to ask the proponent. If I heard him right, has the area of family life been excluded?

MR. AZCUNA. The phrase "including family life" has been excluded, but the area of family life is still included under "social and cultural," but it is not explicitly stated.

MR. COLAYCO. The Commissioner said that the family life area was excluded because it was deemed included in "social and cultural." Am I right?

MR. AZCUNA. Yes, the Commissioner is right.

MR. COLAYCO. Would this, therefore, justify Congress in amending the Civil Code so that both husband and wife will have joint administration of the conjugal partnership?

MR. AZCUNA. Yes, Madam President. Right now, it is one of the modes allowed in the Civil Code.

MS. AQUINO. It is a premarital arrangement.

MR. AZCUNA. Actually, the Civil Code allows the parties to a marriage to choose, under an antenuptial contract, the domain or the regime of property relationships of the spouses during the marriage. It is just that if they do not make any choice that automatically it becomes the conjugal partnership of gains.

MR. COLAYCO. Precisely, Madam President. In the absence of antenuptial agreement, what would be the authority of Congress to modify the present provisions of the Civil Code?

MR. AZCUNA. If I understand the Commissioner's question right, he is asking whether or not Congress can now amend the Civil Code so that in the absence of any antenuptial agreement, the prevailing regime will be a joint administration.

MR. COLAYCO. That is it.

MR. AZCUNA. Yes. I think it will be within the ambit of legislative power to do so, but it does not have to. I think the "EQUALITY BEFORE THE LAW" clause still admits conjugal partnership of gains as a possible regime, because it can still be sustained as based on some rational distinctions. It is up to Congress to appreciate the difference.

MR. COLAYCO. So, in the matter of purchasing goods for the family like, for instance, if the husband wants to buy a new car, his wife can say no.

MR. AZCUNA. It is up to Congress, if they feel there is no rational difference between a husband and a wife buying a car considering our culture.

MR. COLAYCO. No, this is very important. I think it can cause a lot of disagreement. Under our present laws, the wife can buy any necessities for the family, like a refrigerator, without consulting her husband.

MR. AZCUNA. Yes, that is correct.

MR. COLAYCO. But the husband, it would seem, cannot buy anything without the wife's consent, which would be a very unusual situation.

MR. AZCUNA. Yes, that would be a cruel and unusual punishment. *(Laughter)*

THE PRESIDENT. The time of Commissioner Colayco has elapsed.

MR. COLAYCO. Just one more question, Madam President.

If we allow this, will it not cause a disruption and confusion, if not disagreement, between husband and wife?

MR. AZCUNA. Yes, Madam President. I do believe, however, that the present formulation grants enough flexibility for Congress to fine-tune our Civil Code, both in the light of the demand for equality by women and the antecedent structure of cultures in our society, so that it will not be so abrupt.

MR. COLAYCO. Thank you, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I be clarified on two points. The provision, as proposed, would read "FUNDAMENTAL EQUALITY BEFORE THE LAW of women with men." How would the Commissioner distinguish this from the second sentence of Section 1 of the Article on the Bill of Rights which provides: "nor shall any person be denied the equal protection of the laws"?

MR. AZCUNA. There is no real difference, Madam President, because equality before the law means equal protection. This is one way of saying that.

MR. DAVIDE. In other words, that particular portion can be deleted because it is already covered by Section 1 of the Article on the Bill of Rights.

MR. AZCUNA. Madam President, we want to emphasize that this equal protection before the law should be observed with respect to women vis-a-vis men.

MR. DAVIDE. But the "equal protection of the laws" clause applies both to men and women, and even to a possible third sex.

MR. AZCUNA. Yes, but the women have been treated as second class persons, so we wanted to eliminate that treatment by emphasizing that this fundamental equality before the law obtains in the relationship of women with men.

MR. DAVIDE. On the second point: What are contemplated as the components of "nation-building"? Are these not the social, civil, political, cultural, moral and intellectual components?

MR. AZCUNA. Yes, they are, but basically "nation-building" refers to the development of people.

MR. DAVIDE. Yes, civilly, politically, socially, economically, intellectually and even spiritually.

MR. AZCUNA. That is right, Madam President.

MR. DAVIDE. So, in other words, the second portion of the second sentence may not even be necessary, because the flagship provision reads: "The State recognizes the role of women in nation-building." That would be sufficient since "FUNDAMENTAL EQUALITY" is covered by the "equal protection of the laws" clause. The last portion regarding civil, political, social, economic and cultural are themselves the components already of nation-building.

MR. AZCUNA. Yes, Madam President. But as I said, it has to be emphasized that in this nation-building process the women are not just taking a backseat role. They are equal participants with men in this nation-building. So there is a need to reiterate their fundamental equality before the law with men.

MR. DAVIDE. This should be a provision of first impression. It was not in the 1935 Constitution, neither in the 1973 Constitution. So if we merely stop at recognizing the role of women in nation-building, that really would be a recognition of the role of women – enshrining the particular role of women.

Thank you, Madam President.

MR. TINGSON. Madam President, may I just ask one question?

THE PRESIDENT. Commissioner Tingson may proceed.

MR. TINGSON. Madam President, does the Commissioner agree that in the light of our culture in the

Philippines, the husband is the head and the wife is the heart of the home?

MR. AZCUNA. That is a metaphor, to which I agree.

MR. TINGSON. That would be partly the reason why we would now delete "including family life."

MR. AZCUNA. No, Madam President. "Including family life" is to be deleted because it is already embraced and subsumed by the phrase "social and cultural life." We should not give examples or include such in the law because it is not good drafting style.

MR. TINGSON. Do I understand that our committee did not accept the amendment a while ago to add the phrase "ACCORDING TO LAW"?

MR. AZCUNA. It is included in the second portion where it says: "AND SHALL BY LAW REMOVE ANY DISCRIMINATION AGAINST WOMEN. . ."

MR. TINGSON. I thank the Commissioner, Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, will the two main sponsors, Commissioners Azcuna and Romulo, agree to a simple formulation to read as follows: "The State recognizes the role of women in nation-building and shall ensure the EQUALITY OF MEN AND WOMEN BEFORE THE LAW" and delete all others?

MR. AZCUNA. I regret I cannot, Madam President, because I believe the phraseology is sparse enough, considering the need really to make this equality before the law explicit in all spheres of endeavor.

MR. PADILLA. Madam President, the formulation which is based on the committee suggestion is "EQUALITY BEFORE THE LAW of women with men." I think it should be "EQUALITY OF MEN AND WOMEN." The phrase "women with men" may imply that there are discriminations, inequalities, inequities in the Civil Code, Penal Code or other laws. Let us say: "EQUALITY OF MEN AND WOMEN BEFORE THE LAW."

I am against the phrase "SHALL BY LAW REMOVE ANY DISCRIMINATION . . ." because that assumes that any such discrimination, inequality or inequity exists in the Civil Code or in the Penal Code.

Assuming arguendo that there is such discrimination, then that would be the function of the Congress. It is the Congress that passed the Civil Code and the Penal Code.

Also, I am against this phrase "in all spheres" because as observed by Commissioner Davide, these are already included in the role of nation-building. There is no necessity of making it too long or enumerating, because there is no need for an enumeration, which may not be exhaustive, for an enumeration might exclude others under the principle of *inclusio unius est exclusio alterius.* So for a provision in the Constitution, I believe that the first portion can stand without the other long phrases and clauses thereafter. I will repeat my suggestion, Madam President: "The State recognizes the role of women in nation-building and shall ensure EQUALITY OF MEN AND WOMEN BEFORE THE LAW," and delete all others.

THE PRESIDENT. But it has not been accepted by Commissioner Azcuna. How about the committee? Does it accept the proposed amendment of Commissioner Padilla?

MS. AQUINO. The committee regrets that it cannot accept the amendment of Commissioner Padilla.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Madam President, may I suggest that we suspend the session.

THE PRESIDENT. But we are ready to vote on Section 11 as formulated by Commissioner Azcuna.

MS. AQUINO. Madam President, the committee chairman is manifesting that we would ask for time.

MR. TINGSON. We prefer to resume this after lunch so that we could probably, in a sense, perfect this formulation and reconcile.

SUSPENSION OF SESSION

MR. ROMULO. I move that we suspend the session.

THE PRESIDENT. The session is suspended.

It was 12:32 p.m.

RESUMPTION OF SESSION

At 3:03 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Romulo is recognized.

MR. ROMULO. Madam President, I ask that Commissioner Padilla be recognized.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, Section 11 was proposed to read as follows: "The State recognizes the role of women in nation-building and shall ensure

EQUALITY OF MEN AND WOMEN BEFORE THE LAW."

MR. ROMULO. Will Commissioner Padilla yield to an amendment by substitution to read as follows: "The State recognizes the role of women in nation-building and shall ensure the FUNDAMENTAL EQUALITY BEFORE THE LAW OF MEN AND WOMEN."

MR. PADILLA. It is essentially the same, so I accept.

THE PRESIDENT. What does the committee say?

MS. AQUINO. We already agreed on that – that it will be transposed: "WOMEN AND MEN."

MR. AZCUNA. So ladies first.

MR. ROMULO. What does Commissioner Padilla say?

MR. PADILLA. According to Commissioner Davide, we leave it to the Committee on Style. But the first portion speaks of the role of women, so the second portion should be "EQUALITY OF MEN AND WOMEN." Even the last word becomes even more impressive than the previous word.

MS. AQUINO. Madam President, precisely proceeding from that kind of an observation, I think what is logical is that we give preference in terms of attention and focus to women.

MR. RODRIGO. Madam President.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. Even alphabetically it should be "MEN AND WOMEN." *(Laughter)* Adam was created before Eve.

THE PRESIDENT. How shall we submit this now to the body, Commissioner Aquino?

MS. AQUINO. I would formally move to amend that, if Commissioner Romulo is amenable to it, to transpose "WOMEN" before "MEN."

MR. ROMULO. I accept, Madam President.

THE PRESIDENT. So will the Commissioner please read it again so that we can submit it to a vote, because we have discussed this quite lengthily?

MR. ROMULO. Madam President, it shall now read: "The State recognizes the role of women in nation-building and shall ensure the FUNDAMENTAL EQUALITY BEFORE THE LAW OF WOMEN AND MEN."

VOTING

THE PRESIDENT. As many as are in favor of this new formulation of Section 11, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 28 votes in favor and none against; Section 11 is approved.

MR. TINGSON. Madam President, likewise, the committee calls on Commissioner Aquino to state the committee's formulation of Section 12.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. Madam President, conformably with the observations in the period of interpellations, the committee is introducing an amendment to Section 12 to streamline and dovetail the provisions on social justice pertaining to the labor group.

Section 12, as amended, would now read: "The State affirms the primacy of labor as a social and economic force and shall PROMOTE THE WELFARE AND PROTECT THE RIGHTS OF WORKERS."

MR. BENGZON. Madam President.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. I have an amendment which would read as follows: "THE STATE AFFIRMS THAT LABOR IS A PRIMARY SOCIAL AND ECONOMIC FORCE. ACCORDINGLY, IT SHALL PROMOTE THE WELFARE AND PROTECT THE RIGHTS OF WORKERS."

MS. AQUINO. Madam President, the committee accepts the amendment.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I have also a formulation. The primacy of labor is not a social and economic force but the primacy of the right to a just share of the fruits of production. I do not think there is a meaning to saying "primacy of labor as a social and economic force." We recognize labor as a social and economic force and protect the primacy of the right to a just share of production.

MR. BENGZON. Madam President, the primacy of the right of labor to a just share is very well enshrined in the Social Justice Article and to dovetail, precisely, what we are affirming here is the fact that labor is a primary social and economic force. So that is the principle we are declaring here and proceeding from that, therefore, is the promotion of the welfare and the protection of the rights of the workers since they are a primary social and economic force.

MR. MONSOD. I just do not understand what we mean by "A PRIMARY SOCIAL AND ECONOMIC FORCE." I think that is my problem, Madam President. What is a secondary social and economic force? What is a tertiary social and economic force?

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. May I intervene, Madam President. The intention behind "PRIMARY" is only to give due recognition to the fact that what requires us to recognize the labor force is the human element behind the creation of vital commodities which create wealth. It is only in the spirit of affirming human dignity in any kind of social order.

MR. MONSOD. But it is a primary force in what, Madam President? Is it in production, in national life? It must be a force for something.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. If I understand it right, at least part of the inspiration of this provision comes from the proposed resolution I filed and Commissioner Aquino said that. The idea really is the primacy of labor over capital. I think Commissioner Aquino pointed out very well the thrust of that assertion. It is really an assertion of the supremacy of human dignity over things.

In the process of production,labor is always a primary and efficient cost, while capital remains a mere instrumental cost. We will notice that all the means by which a person appropriates natural resources and transforms them in accordance with his need are the result of the historical heritage of human labor. Besides, it is clear that every person sharing in the production process is the real efficient subject, while the collection of instruments, no matter how perfect they are, is only a mere instrument subordinate to human labor.

In our present system, capital is sometimes given more weight than labor. Let me give an illustration: Sometimes when there is an increase in the price of raw materials, we automatically increase the price of goods and there is no question about that because the price of raw materials has been increased. Yet when the workers ask for a corresponding increase in their wages, they are told: "Wait, the price of raw materials is already very high and you will still ask for an increase in the price of labor?"

So in actual consideration, it seems that labor takes the last place in the consideration and computation of the things that must be increased. So I think it is important to assert that.

I believe Commissioner Aquino caught the thrust very well when she said that this is really an assertion of the primacy of human dignity over things.

Thank you, Madam President.

MR. MONSOD. Madam President, I just wanted to ask one question of Commissioner Bacani.

If the Commissioner wants to affirm the primacy of labor as against capital; then that can only be concretized in terms of sharing. So the operational result of that is the primacy of their right to a just share because we can only translate the idea of primacy of labor over capital through sharing.

BISHOP BACANI. Yes. So what this aims is that in the consideration of the different economic factors, increase in labor must first be considered over the necessary increase in capital costs.

MR. MONSOD. So what the Commissioner is saying is that we recognize labor as a primary social and economic force. Is that the reason why the Commissioner added "PRIMARY"?

BISHOP BACANI. Also in relation to capital; that is, to create the goods used in the production process, it has the primary place in relation to this particular reality.

MR. MONSOD. Will the Commissioner accept a rewording that states: "THE STATE RECOGNIZES LABOR AS A PRIMARY SOCIAL AND ECONOMIC FORCE AND SHALL PROTECT THEIR WELFARE AND THEIR RIGHT TO A JUST SHARE OF THE FRUITS OF PRODUCTION"?

BISHOP BACANI. I think it does not fully convey the sense of the resolution I filed, but I would be happier if we say: "THE STATE RECOGNIZES THE PRIMACY OF LABOR OVER CAPITAL AND SHALL PROTECT THE JUST SHARE OF. . . ."

MR. MONSOD. I submit to the committee because I believe in the discussions of the Social Justice Article, the same subject came up and the compromise was that there is a corresponding right of capital. If we are dropping that last phrase on the corresponding right of capital, it would be an unbalanced article. I think that would be my comment on that, and I would like to leave it for others to discuss.

BISHOP BACANI. May I just note that in that formulation in the Article on Social Justice, the word "capital" has an ambiguous meaning there because it does not refer to things but it refers to capitalists, to people because we are not really speaking of the just share of capital; that is, of raw materials or of money, et cetera, to a corresponding share. I do not think that that is the meaning there. But what it tries to assert is the primacy of the human factor over the nonhuman factors in production.

THE PRESIDENT. Commissioner Bacani's time has expired for three minutes already.

BISHOP BACANI. Thank you.

SUSPENSION OF SESSION

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. May we request for a suspension of the session so we can harmonize the provisions of Commissioner Bengzon, which we have accepted already, with the proposal of Commissioner Monsod.

THE PRESIDENT. The session is suspended.

It was 3:18 p.m.

RESUMPTION OF SESSION

At 3:22 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MS. AQUINO. Madam President, may we request for the recognition of Commissioner Bengzon who would present the formulation for Section 12.

THE PRESIDENT. Commissioner Bengzon is recognized.

MR. BENGZON. Madam President, this is the new formulation for Section 12. "The State affirms labor as a PRIMARY, social and economic force. ACCORDINGLY IT SHALL PROMOTE THE welfare and protect THE rights OF WORKERS."

THE PRESIDENT. Are we ready to vote?

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. In the Article on Social Justice, under the first subheading on Labor, we have already decided on the principle of shared responsibility between workers and employers, the right of labor to a just share in the fruits of production and the right of enterprises to reasonable returns on investments, expansion and growth. There seems to be no necessity for this Section 12. Even the suggestion of Commissioner Bengzon regarding the word "primary" will not be in consonance with what we have agreed on the section on Labor under the Article on Social Justice. Madam President, I agree with Commissioner Bacani that human force or human participation in production is more important than the instruments of production, like machinery or equipment. But what we need is more private initiative of captains of industry. Commissioner Villegas has been mentioning that private enterprise is necessary not only for agricultural development but more so for industrial development and also for the creation of wealth by all factors of production. Unfortunately, we have so many people unemployed who are willing and are qualified to work, but unless we have more agricultural development and more industrial enterprises, the labor force may remain unemployed. We would like to have maximum or full employment, but this cannot be achieved unless we have the capital entrepreneurs who will put up industrial plants for manufacture, not only for the domestic market but also for export.

And so our President, in her visit to the United States, invited investors for capital formation in the Philippines on joint venture or even without joint venture. Under our prostrate economic society, under the many years of the Marcos dictatorial regime, our situation is prostrate, we cannot even move forward, especially with the burden of the P26-billion foreign indebtedness. We need capital and private entrepreneurs, preferably Filipinos. So why are we going to always stress the primacy of labor? I want to give the labor group the opportunities to have jobs and to share in the productive benefits of creating more wealth.

THE PRESIDENT. The time limit has already expired.

MR. PADILLA. Thank you, Madam President.

MS. QUESADA. Madam President.

THE PRESIDENT. Commissioner Quesada is recognized.

MS. QUESADA. Thank you.

We just like to reiterate the position of the committee that this particular provision is very vital for the labor sector and we believe that having a flagship principle in the words of Commissioner Ople, or the curtain principle in the words of Commissioner Nolledo, would set the principle underlying the implementing guidelines found in the Article on Social Justice. So we believe that it is very important to retain it in the Declaration of Principles alongside with the rest of the principles that we have provided for such concerns as the youth, women, children, indigenous communities, family, et cetera.

I think we are now ready for the vote.

THE PRESIDENT. Will Commissioner Bengzon read the new formulation of Section 12.

MR. BENGZON. "The State affirms labor as a PRIMARY social and economic force. ACCORDINGLY, IT SHALL PROMOTE THE welfare and protect THE rights OF WORKERS."

VOTING

THE PRESIDENT. As many as are in favor of the new formulation of Section 12, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 25 votes in favor and 2 against; so Section 12 is approved.

MR. TINGSON. Madam President, Section 13 has been deleted and we have approved that. We now go to Section 14. Similarly, the committee has amended this particular section and I am going to call our committee member, Commissioner Rosario Braid.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I would like to submit to the committee later a complementary section to the section on Labor that would, in turn, affirm the support of the State for private initiative. However, I would still formulate it. I just want to reserve that amendment because it should follow the provision on Labor.

THE PRESIDENT. So, is the Commissioner proposing a new section?

MR. MONSOD. Yes, to complement the provision on Labor but I will still be formulating this.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, in line with the manifestation of Commissioner Monsod, probably the committee can consider a formulation which is actually the last paragraph of Section 3 of the Article on Social Justice. By way of a suggestion to the committee, it will only be a matter of transposition. It would read as the second paragraph of Section 12: "It shall regulate the relations between workers and employers, recognizing the rights of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, expansion and growth." Actually we do not have to decide on this because this has already been decided upon as the last paragraph of Section 3 of the Article on Social Justice. I am only suggesting that as a complementary provision. Probably, Commissioner Monsod can consider this as the second paragraph of Section 12. By way of suggestion, I am not presenting it to the committee right now, Madam President.

Thank you.

MR. TINGSON. Madam President, ordinarily our committee would only want a statement of principles and we would rather prefer that provisions like that be left where they are in the particular corresponding article, unless the Commissioner could explain to us why it is really vital and necessary that it should be moved here.

MR. MAAMBONG. I would agree with the committee on that statement. As a matter of fact, in the outline I presented, I was suggesting a single sentence for all these principles and policies but the present formulation as approved by the body stops on the right of workers; for me, it is incomplete. A person who reads Section 12 will see that we are only trying to protect workers and, as stated by Commissioner Padilla, that is not exactly correct. So, in order that the body will not be burdened by a formulation, I suggest that we just transpose the last paragraph of Section 3 of the Article on Social Justice as the second paragraph of Section 12. That is only a suggestion to complete the whole text.

THE PRESIDENT. So, we will take that up as soon as we receive the reservation of Commissioner Monsod.

MR. MAAMBONG. Yes, Madam President.

THE PRESIDENT. So, we can proceed first to Section 14.

MR. TINGSON. Madam President, Commissioner Rosario Braid will read Section 14.

MS. ROSARIO BRAID. Section 14, which is now Section 13, reads: "The State shall promote rural development and agrarian reform as priorities BASED ON cooperativism." It ends there. We have deleted the last phrase.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I would like to suggest that we drop the thing about cooperativism, because at this point we already have a section on that in another area which is in the Article on National Economy and Patrimony. According to some labor unions, that is not, by any means, the primary way of organizing. We already have a provision for cooperatives in the Article on National Economy and Patrimony.

MS. ROSARIO BRAID. Yes, that mandates Congress to create an agency that will unify and integrate efforts in cooperatives. This one recommends cooperativism as a principle of rural development on the basis that the real prime value in our society is the "bayanihan" or the collective unity. And so, we find out that the problem that is singled out from agrarian reform and other rural development projects is the lack of adequate collective efforts in pursuing these rural development projects. Rural development does not preclude other principles beyond cooperativism, but we just recognize the primacy of cooperativism over other forms of organizing mechanisms.

MR. MONSOD. As a matter of fact, I was going to move for the deletion of this section, because this is a part of the Article on Social Justice and the reference to cooperativism is an undue emphasis on something that has not been fully determined to be the best way that organizing should be done.

MS. ROSARIO BRAID. Madam President.

MR. MONSOD. Since it is there, then we might as well put it in the Article on National Economy and Patrimony.

MS. ROSARIO BRAID. In the Article on Social Justice, there has been no mention of rural development. There were independent efforts towards social justice as a principle, but rural development as a strategy has not been mentioned at all in any of the provisions.

MR. MONSOD. So, why do we not just say: "The State shall GIVE PRIORITY TO rural development and agrarian reform"? Either that or we delete the whole section. I will leave it to my colleagues if there are any anterior proposals in that regard.

MS. ROSARIO BRAID. The committee accepts with the understanding that cooperativism should be one of the guiding principles, if not the most important principle.

MR. MONSOD. I submit, unless there is somebody from the body who would like to propose a deletion which is really my first preference.

MR. SARMIENTO. Madam President:

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I gently oppose the move to delete this section. If we gave women and labor their respective sections, I do not see any reason why we should delete this section on agrarian reform and rural development.

May I introduce an additional amendment to this section. What is equally important other than rural development and agrarian reform is the matter of industrialization. So, may I suggest to the committee that we include the word INDUSTRIALIZATION, so that Section 14 will read: "The State shall promote rural development, agrarian reform AND INDUSTRIALIZATION as priorities with cooperativism as its organizing principle."

MR. JAMIR. Madam President, I have an anterior amendment.

THE PRESIDENT. Commissioner Jamir is recognized.

MR. JAMIR. I move to delete Section 14.

THE PRESIDENT. What does the committee say?

MS. ROSARIO BRAID. We cannot accept the deletion. We would like to react to Commissioner Sarmiento's amendment, Madam President.

MR. JAMIR. In that case, Madam President, I ask for a vote.

MR. TADEO. Madam President.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Madam President, ang pinakamalaki at pinakamalawak na sektor ay ang magbubukid. Bakit naman natin aalisin ang magbubukid? Totoong napakalalim ng iniwang krisis ni Ginoong Marcos sa ating bayan. Hindi na pwede pa yaong patapal-tapal o "palliatives after palliatives." Kayat hinihiling ng magbubukid sa kapulungang ito na kung maaari ay manatili ang Section 14.

MR. GASCON. Madam President.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. We are discussing the Article on Declaration of Principles. I would like to support the position of Commissioners Tadeo and Sarmiento that we should have a provision stating the general principle with regard to rural development, which affects the peasantry the most. We are not stating the implementing guidelines. That is covered in the Article on Social Justice. What we are talking about is a basic principle which will affect these peasants. I would strongly suggest that we include one sentence referring to them as far as agrarian reform and rural development are concerned. I think we owe this as much to the peasants. So, I would strongly object to this anterior amendment and when we vote, that does not preclude any amendments to this provision.

Thank you, Madam President.

MR. ABUBAKAR. Madam President.

THE PRESIDENT. Commissioner Abubakar is recognized.

MR. ABUBAKAR. Madam President, I think the amendment of Commissioner Sarmiento is not only in order but also farsighted. While we are all in favor of rural development, let us not forget that rural development is not the only factor that will propel our society from its status to a rich and progressive one. Also, another consideration or factor that will help the Filipino people to attain this progress is industrialization. While we have not yet even begun or probably we have very minor beginnings in our industrialization program, we should include it in our Declaration of Principles, because if we speak of our own concept of how Philippine society is developed and remain as it is, confined to the development of rural society, rural progress, we can never attain the industrial power and other beneficial effects to the economy. Therefore, we must combine our orientation towards agriculture and rural development; let us not forget that we are a people who aspire for better things in life. This can only be achieved if we combine the two in economic, rural and industrial development and progress. I agree with Commissioner Sarmiento that his sight is not only in what we have now but also in the future.

Thank you.

MS. NIEVA. Madam President.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. Madam President, I think we should maintain Section 14 because there would really be an imbalance here if we stress the primacy of labor and we are not taking into account the great majority of the people who live in the agricultural area. And so, really, there is no mention of rural development as such per se in the Article on Social Justice while everything else, perhaps, would lead to rural development. If this section is supposed to be the flagship proposal, I think, we should maintain this.

MR. MAAMBONG. Madam President.

MR. RODRIGO. Parliamentary inquiry, Madam President.

THE PRESIDENT. Commissioner Rodrigo, we are still receiving comments on the motion to delete.

MR. RODRIGO. May I have a parliamentary inquiry.

THE PRESIDENT. Yes, the Commissioner may proceed.

MR. RODRIGO. I think the parliamentary situation is that there is a motion to delete the whole section.

THE PRESIDENT. Yes, we are discussing that.

MR. RODRIGO. But before that there was a proposal by Commissioner Monsod to place a period after the words "agrarian reform" and delete the rest. So, while the motion to delete the whole section is a priority, with that parliamentary situation I wonder if Commissioner Jamir might not withdraw his motion to delete the whole section to give way to this amendment of Commissioner Monsod.

THE PRESIDENT. The Chair is going to inquire from Commissioner Jamir if he insists on his motion to delete.

MR. MAAMBONG. Madam President.

THE PRESIDENT. May we have the answer first of Commissioner Jamir.

MR. JAMIR. If the committee accepts the amendment of Commissioner Monsod without any further addition, I will withdraw my motion.

MS. ROSARIO BRAID. Madam President.

MR. GASCON. I would object to that. If that is the case, then I would suggest that we vote on the motion to delete.

THE PRESIDENT. May we request Commissioner Jamir to state whether he is withdrawing or not, because it cannot be conditional.

MR. MAAMBONG. Madam President.

THE PRESIDENT. May we have the answer first of Commissioner Jamir.

MR. JAMIR. Madam President, I move that a vote be taken on my motion.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Madam President, I just want to have this thing clarified. I heard the committee say that they were accepting the amendment of Commissioner Monsod up to the words "agrarian reform" subject to the interpretation of Commissioner Rosario Braid. I do not see why we have to delete it now considering that it has been accepted by the committee. Is it my understanding that Commissioner Rosario Braid is accepting it up to the words "agrarian reform"?

MS. ROSARIO BRAID. Yes.

MR. MAAMBONG. If that be the case, Commissioner Sarmiento is not preempted here because if we approve this up to the words "agrarian reform" with the understanding that he can put in additional amendment as a primary amendment after we approve it, then we can save the situation, Madam President.

MS. ROSARIO BRAID. Yes.

THE PRESIDENT. But there is this motion of Commissioner Jamir to delete, so let us first vote on that motion.

MR. MAAMBONG. Madam President, I heard Commissioner Jamir say that if the committee accepts the amendment of Commissioner Monsod up to the word "agrarian reform," he is even willing to withdraw the motion.

MR. TINGSON. Madam President, we accept that.

MS. ROSARIO BRAID. Yes, we have accepted the amendment of Commissioner Monsod.

MR. MAAMBONG. So, that is the situation, Madam President.

MR. GASCON. Madam President, I have a previous objection.

THE PRESIDENT. There is an objection from Commissioner Gascon.

MR. GASCON. What I have objected to is the condition that the committee does not accept any other amendments assuming that once the committee has accepted the proposal of Commissioner Monsod, that does not hamper any other Commissioner to present amendments which the committee will have to act on. I do not see why we should pose on that.

THE PRESIDENT. So let us proceed to the motion of Commissioner Jamir – whether to delete or not to delete.

MR. NOLLEDO. Madam President, before we vote on the Jamir motion, may I talk only for 50 seconds?

THE PRESIDENT. Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Madam President.

I vigorously object to the motion of Commissioner Jamir. Section 14 was formulated by us to underscore the importance of rural areas in national development, Madam President. About 70 percent of our population lives in rural areas. It is said by economic experts that if rural development fails, democracy will fail in our country.

Thank you, Madam President.

MR. RODRIGO. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Rodrigo is recognized.

MR. RODRIGO. I just want to ask this: In case the motion of Commissioner Jamir to delete is approved, may Commissioner Monsod still present his amendment which is a new formulation of Section 14?

THE PRESIDENT. Yes. That is what we did before.

MR. RODRIGO. Thank you very much.

MR. PADILLA. Madam President, I am suggesting a simple statement for Section 14.

THE PRESIDENT. Yes. But let us vote first on the motion to delete and then we will go into that so that we can get out of our chest this motion to delete of Commissioner Jamir.

MS. QUESADA. Madam President, just for the record, may we ask Commissioner Jamir to state again the reason for his motion for deletion?

MR. JAMIR. I base my motion upon the previous statement of Commissioner Monsod in effect that this provision is unnecessary.

MS. QUESADA. Would the Commissioner not say that this is also true for the rest of the provisions that we have already approved because they are already covered?

MR. JAMIR. My reason is short and specific. It is based upon what Commissioner Monsod said.

THE PRESIDENT. With respect to Section 14.

REV. RIGOS. Madam President.

THE PRESIDENT. Commissioner Rigos is recognized.

REV. RIGOS. Madam President, I understand that when Commissioner Jamir was told that the committee accepted the Monsod amendment, then he was willing to withdraw his motion to delete.

THE PRESIDENT. Yes, but there was an objection to that. It cannot be conditional.

REV. RIGOS. He has no more condition.

VOTING

THE PRESIDENT. In other words, Commissioner Jamir asked for a vote on his motion to delete. That is the latest that we have. So, let us proceed to vote on that motion to delete and if the members are not convinced on the merits of it, then please do not vote for the deletion. I think that is just very simple.

As many as are in favor of the motion of Commissioner Jamir to delete Section 14, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 9 votes in favor of the deletion and 21 against; so the motion to delete is lost.

MR. MONSOD. Madam President.

THE PRESIDENT. May we have the amendments to Section 14?

MR. MONSOD. May I then propose now my amendment which is to put a period after "agrarian reform."

THE PRESIDENT. Will the Commissioner state the whole sentence.

MR. MONSOD. "The State shall promote rural development and agrarian reform."

MS. ROSARIO BRAID. The committee accepts, Madam President.

MR. MONSOD. I just want to give an answer to Commissioner Sarmiento regarding industrialization. I just want to note for him that rural development is not synonymous with agricultural development.

MS. ROSARIO BRAID. Yes.

MR. MONSOD. When we talk about "rural development," that would include both agricultural and industrial development because "rural" is a place. It does not concern itself with either agriculture or industry.

MS. ROSARIO BRAID. Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I give my brief rejoinder to the observations of Commissioner Monsod. Madam President, my submission is that rural development would not cover industrialization. We can have urban development and we can have industrialization when we speak of "urban development." To me, rural development, agrarian reform and industrialization are three different concepts which the State should give importance to. If we mention "industrialization" in the Article on National Economy and Patrimony, if we mention "agrarian reform," I see no reason why we should not mention "industrialization" which is a very vital element for national progress and development.

MR. MONSOD. Madam President.

THE PRESIDENT. May we have the answer of the committee. The committee has accepted the amendment.

MS. ROSARIO BRAID. Madam President, we explained earlier, during the period of interpellations, that industrialization is a strategy of rural development. We could have balanced agro-industrial development which is rural development. We could have educational development that is tailored to rural development and that is part of rural development, but it is a strategy. We believe that "rural development" is an all-encompassing term that will include the concept of industrialization.

MR. SARMIENTO. Madam President, I am willing to die on this proposed amendment; so, may I suggest that we vote on this concept of industrialization.

MR. TADEO. Madam President.

THE PRESIDENT. Just a minute, please. Will Commissioner Sarmiento please state again what he said?

MR. SARMIENTO. Madam President, I am suggesting that we vote on this proposed amendment that I made—that we include the concept of industrialization after "agrarian reform."

THE PRESIDENT. So this is an amendment to an amendment by Commissioner Monsod which has been accepted by the committee.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Madam President, to reconcile or harmonize the proposals of both Commissioners

Monsod and Sarmiento, may I propose the following amendment: "The State shall promote rural AND URBAN, AGRICULTURAL AND INDUSTRIAL development."

MR. TADEO. Madam President.

THE PRESIDENT. Commissioner Tadeo is recognized.

MR. TADEO. Ipapaliwanag ko lamang po iyong "cooperativism" kung bakit dapat mapasama.

Madam President, hindi maaaring magkaroon ng rural development na hindi organisado ang mamamayan sa kanayunan. Hindi maaaring maipagtagumpay ang agrarian reform nang hindi organisado rin ang mamamayan sa kanayunan. Kaya sa akin pong palagay, dapat manatili ang "cooperativism." Batay po sa karanasan ng magbubukid, kapag hindi organisado ang mga magbubukid, lalamunin lamang siya ng sistema. Kinakailangan siyang maorganisa; kaya kailangan ang "cooperativism" as its organizing principle. Hindi maaaring magkaroon ng rural development, hindi maipagtatagumpay ang agrarian reform program nang hindi organisado ang mga magbubukid. Kasama rin dapat ang "industrialization."

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 3:54 p.m.

RESUMPTION OF SESSION

At 4:05 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. TINGSON. Commissioner Rosario Braid please, Madam President.

THE PRESIDENT. Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Madam President, our reformulated provision, with the help of several Commissioners: Commissioners Monsod, Davide, Sarmiento, Villacorta, Padilla and the committee and others who have joined us,states: "The State shall promote COMPREHENSIVE rural development and agrarian reform."

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I know from the committee whether the concept "industrialization" could be covered by "COMPREHENSIVE rural development"?

MS. ROSARIO BRAID. The words "rural development" is an all-encompassing term which includes social, economic, human, cultural, political development and will include strategies, such as industrialization strategy, agro-industrial strategy as well as other strategies such as the integrated area of development strategy during the past decade.

MR. SARMIENTO. What about cooperativism?

MS. ROSARIO BRAID. Cooperativism is a primary organizing principle which does not preclude also other principles.

MR. SARMIENTO. With the Commissioner's explanation, I am willing to die for the new formulation. *(Laughter)*

MS. ROSARIO BRAID. Thank you.

MR. TINGSON. We would like the Commissioner to live for it.

THE PRESIDENT. So, are we ready to vote now?

MR. PADILLA. Madam President.

THE PRESIDENT. Is Commissioner Padilla not ready to die?

MR. PADILLA. No, I am against.

THE PRESIDENT. The Commissioner is against.

MR. PADILLA. I am against especially on the introduction of the adjective "COMPREHENSIVE." We might have to add "COMPREHENSIVE," "COORDINATED," "COMPLETE" and whatnot. This will make it even worse than the original committee report.

I do not know how industrialization can be included in rural development. Why do we not just say "rural and urban development," "agricultural and industrial productivity"? It gives the wrong impression that if we have "agrarian reform" that is already provided for in the Social Justice provision and is the "end-all" and "be-all" of our productivity.

We need to give job opportunities to the many unemployed and that cannot be covered by just rural development even if we qualify that with the adjective "COMPREHENSIVE." Job opportunities are usually the jobs in industrial plants. Many feel that while agricultural productivity is very important, it must be associated with or accompanied by industrialization to give our many people, especially in the urban areas,job opportunities.

If we do not mention productivity, the creation of wealth, how can we improve our economy? I am against the reformulation and I do not know whether the other

Commissioners will not be gracious enough to consider and if possible accept my short and concise expression of the same idea.

MS. ROSARIO BRAID. Madam President, the committee does not accept. It has taken note of Commissioner Padilla's amendment and we are convinced that all of these activities or strategies are all parts of rural development. Agrarian reform is mentioned because it is the basic program on which rural development should be anchored on. We also submit that the other concepts of agricultural productivity or entrepreneurship can be accommodated in a separate provision which perhaps the Commissioner can submit at an appropriate time after we have discussed this provision. But we will maintain our wording of this provision as read earlier and we should like to request for a vote.

THE PRESIDENT. The Commissioner may read the new formulation.

MR. PADILLA. Madam President, my suggestion is in the nature of an amendment to the amendment that has been accepted by the committee.

MS. ROSARIO BRAID. Yes.

MR. PADILLA. May I ask for a vote on my proposed amendment.

MS. ROSARIO BRAID. The situation, Madam President, is that Commissioner Padilla is requesting a vote on his amendment to the amendment which he will read to our amended provision.

MR. PADILLA. My proposed amendment reads: "The State shall promote rural AND URBAN development, AGRICULTURAL AND INDUSTRIAL PRODUCTIVITY."

THE PRESIDENT. May we have the committee formulation?

MS. ROSARIO BRAID. The committee formulation is: "The State shall promote COMPREHENSIVE rural development and agrarian reform."

MR. GASCON. Madam President.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. May I just speak for one minute against the proposed amendment of Commissioner Padilla?

THE PRESIDENT. The Commissioner may proceed.

MR. GASCON. I would like to oppose it in support of the proposal of the committee after discussing with the other Commissioners because the proposal of the committee concentrates on the issue of rural development and agrarian reform, while the amendment of Commissioner Padilla speaks of urban, rural, industrial and agrarian reform which actually, if we look at it, is even simpler than total development of economy and society, which does not really mean anything. As far as this section is concerned, the intent is to concentrate on rural and agrarian reform.

Thank you.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Just one question to the committee. Did I hear the Commissioner right when she said that "rural" includes "urban"?

MS. ROSARIO BRAID. No, we have noted, however, that 70 to 75 percent of our population lives in the rural areas and this is why it takes primacy over urban development.

MR. DE CASTRO. So the Commissioner likes to develop 75 percent but she does not like to develop 100 percent. If rural is 75 percent, as the Commissioner has said, and urban becomes 25, we are developing rural only here, but Commissioner Padilla is also including urban. So the Commissioner likes to develop 75 percent instead of 100 percent, is my understanding correct?

MS. ROSARIO BRAID. No, that is not correct. In other provisions, we have attended to the needs of the urban population such as in the Article on Labor, Social Services and other mechanisms here that would improve the lives of all the Filipinos within the nation. But because we must, as we have said, give a preferential option for the poor, the disadvantaged, we plan to enshrine this particular provision on rural development.

MR. DE CASTRO. Seventy percent of those in the urban are also poor. Do I understand that labor is only prevalent in the urban area not in the rural area?

MS. ROSARIO BRAID. No, but we will submit that a large percentage of organized labor comes from the urban population. We submit that labor encompasses both urban and rural, but this section would like to mandate the State or the Congress to attend to rural development and to come up with a more vigorous policy in rural development that is addressed to the majority of our population.

THE PRESIDENT. I am sorry, but this has been sufficiently discussed and we have to put to a vote the proposed amendment of Commissioner Padilla.

MR. DE CASTRO. To include "URBAN" in the development.

VOTING

THE PRESIDENT. The proposed Padilla amendment is: "The State shall promote rural AND URBAN development, AGRICULTURAL AND INDUSTRIAL PRODUCTIVITY."

As many as are in favor of this formulation, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 5 votes in favor and 16 against; the proposed amendment is lost.

Let us proceed to vote on the committee formulation which is: "The State shall promote a COMPREHENSIVE rural development and agrarian reform."

As many as are in favor of this formulation of Section 14 as presented by the committee, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 20 votes in favor and 4 against; Section 14 is approved.

MR. TINGSON. Madam President, regarding Section 15, the committee has deleted line 6 up to line 10, and the new formulation suggested by the committee, which will now become Section 14, reads: "The State respects the rights of indigenous communities TO PURSUE their own path of development within the framework of national unity."

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. I would like to suggest that we also delete lines 4, 5 and 6, beginning with the word "to" and ending with the word "characteristics." I would also like to retain the word "recognize." So, the section will now read: "The State shall recognize and respect the rights of indigenous cultural MINORITIES within the framework of national unity AND DEVELOPMENT."

In other words, we delete the words "to choose their own path of development according to their political, economic and cultural characteristics." I think those are repeated in two or three other sections of the Constitution. It is really unnecessary when we say: "shall recognize and respect the rights." Those are all rights of indigenous cultural minorities within the framework of national unity. Then we add "AND DEVELOPMENT."

MR. TINGSON. Madam President, we would like to hear from Commissioner Bennagen.

THE PRESIDENT. Commissioner Bennagen is recognized.

MR. NOLLEDO. If he has no objection.

THE PRESIDENT. That is in connection with the formulation of the proposal of Commissioner Monsod.

MR. BENNAGEN. I leave it to the committee to decide on what they see fit.

Thank you, Madam President.

MS. ROSARIO BRAID. The committee accepts, Madam President, except we would like to verify from Commissioner Monsod if we heard it right. It reads "cultural communities" here and we would like to retain the concept of "communities" rather than "MINORITIES."

MR. MONSOD. Yes, it should be "communities." I am sorry. The section reads: "The State shall recognize and respect the rights of indigenous cultural communities within the framework of national unity AND DEVELOPMENT."

MR. TINGSON. Madam President, the committee accepts the amendment.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I request that the following amendments be incorporated? After the word "communities," we insert the following: "AND ENSURE THEIR FULLEST DEVELOPMENT within the framework of national unity."

MR. TINGSON. We accept, Madam President.

MR. MONSOD. Madam President, I do not think that that adds anything because we are already talking about their development in other sections. We are talking here about the framework of national unity and development. The words "FULLEST DEVELOPMENT" would be just a verbiage at this point. We are trying to establish the principle that their rights shall be recognized in the context of both unity and development.

MR. DAVIDE. If Commissioner Monsod is not willing to accept the word "FULLEST," then at least what should be referred to as development? It is ensuring their development within the framework of national unity. It is not just respecting or recognizing the right within the framework of national unity. What is important is affording them their development within the framework of national unity.

MR. MONSOD. My only short answer, Madam President, is that their right includes the right to develop fully, culturally, economically and socially. That is part of their right. In fact, we have stated that so many times in the Constitution.

MR. DAVIDE. If that is so, may I suggest that instead of "respect" it should be "PROMOTE."

MR. MONSOD. I will agree to that and also maybe we should just take out the word "shall." We just say: "The State recognizes and shall PROMOTE the rights of indigenous cultural communities within the framework of national unity AND DEVELOPMENT."

MR. TINGSON. We accept that formulation, Madam President.

MS. AQUINO. Madam President.

THE PRESIDENT. Commissioner Aquino is recognized.

MS. AQUINO. It does not sound elegant at all when we say "The State recognizes and shall PROMOTE the rights of indigenous communities." I would propose that we delete "shall" and just say "The State recognizes and PROMOTES."

MR. DE CASTRO. Madam President.

THE PRESIDENT. Let us settle this first; is that all right?

MS. ROSARIO BRAID. Yes, we accept the formulation.

THE PRESIDENT. Commissioners Davide and Monsod's amendment?

MR. MONSOD. We will leave that up to styling. As a matter of fact, that should probably be referred to the Committee on Style.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. The chairman of the committee has already accepted the formulation. Is it normal that another member shall object to the acceptance made by the chairman?

MR. TINGSON. We want the help of the original proponent, Madam President.

MR. DE CASTRO. I just like to make it straight, otherwise every member of the committee can object to the acceptance by the chairman.

THE PRESIDENT. Are we now ready to vote? Will Commissioner Rosario Braid please state Section 15?

MS. ROSARIO BRAID. Yes, I shall read Section 15 as it is renumbered as Section 14 now: "The State recognizes and PROMOTES the rights of indigenous cultural communities within the framework of national unity AND DEVELOPMENT."

VOTING

THE PRESIDENT. As many as are in favor of Section 15 which is renumbered as Section 14, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 23 votes in favor and none against; the amendment is approved.

MR. TINGSON. Madam President, Section 16, now renumbered as Section 15 is amended and would read as follows: "The State shall encourage nongovernment and community-based organizations TO ENGAGE in activities that promote the welfare of the nation."

MS. ROSARIO BRAID. Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Can we say "nongovernmental and community-based organizations" and then delete "engaged in activities"? We will just say: "The State shall encourage NONGOVERNMENTAL and community-based organizations that promote the welfare of the nation."

MS. ROSARIO BRAID. The committee accepts, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I propose an amendment to insert the word "INDEPENDENT" before "NONGOVERNMENTAL." I understand that the idea here really is to recognize people's organizations as mandated in the Article on Social Justice. And so, it should be: "The State shall encourage INDEPENDENT NONGOVERNMENTAL and community-based organizations . . ."

MS. ROSARIO BRAID. Madam President, may I just give a brief background of this provision?

THE PRESIDENT. The Commissioner may proceed.

MS. ROSARIO BRAID. This provision recognizes a philosophy that is prevalent now even in our country as well as in many other countries of the world – that volunteerism and participation of nongovernmental organizations should be encouraged. I think this has been substantiated by the Club of Rome study of twenty years of development all over the Third World which showed that government-led development has failed to reduce disparities, has failed to trickle down resources to the majority and that the next decade should be a decade where volunteerism, community-based and nongovernment agencies, independent organizations will be given their due support. We would like to maintain "NONGOVERNMENTAL" here which is really a broad term to include independent organizations also.

MR. DAVIDE. The point is that this is really related to the concept of independent people's organization in the Article on Social Justice and more specifically also in the Article on Agrarian Reform.

MS. ROSARIO BRAID. Madam President, we will entertain an amendment by addition from Commissioner Davide but the concept of nongovernmental here acknowledges private enterprise and privatization.

MR. DAVIDE. Yes, independent, therefore, not dictated by the government. Even if it is nongovernmental, it may still be dictated by the government or organized by the government. So, is the idea to preserve the concept of independent people's organization in the Article on Social Justice?

MS. ROSARIO BRAID. Madam President, the concept of NGOs or nongovernmental organizations is an acceptable concept in the international world. And so, the importance given to NGOs here acknowledges that we are rising on the wave of volunteerism and private initiative.

MR. DAVIDE. For clarification purposes, the nongovernmental and community-based organizations alluded to here are distinct and separate from independent people's organization or farmers' organizations under the Article on Social Justice.

Is this broader in a sense?

MS. ROSARIO BRAID. This is broader and the concept of the independent organizations as found in the Article on Social Justice would refer to the community-based organizations here which will be different from nongovernmental organizations which perhaps are really more organized.

MR. DAVIDE. But community-based organizations are necessarily nongovernmental?

MS. ROSARIO BRAID. That is right.

MR. DAVIDE. And that is the meaning here?

MS. ROSARIO BRAID. Some of the community-based organizations may be government-initiated.

MR. DAVIDE. So it is now very clear that under the proposed Section 16, which will eventually be Section 15, community-based organizations may be organized by the government itself?

MS. ROSARIO BRAID. Maybe and also by private enterprises.

MR. DAVIDE. In short, my last question is: The contemplation of Section 16 is broader than the organizations contemplated in the Article on Social Justice?

MS. ROSARIO BRAID. The Commissioner is right.

MR. DAVIDE. I am not going to insist then on the incorporation of the word "INDEPENDENT."

MS. ROSARIO BRAID. Thank you.

THE PRESIDENT. Are we ready to vote now?

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Just one question if Commissioner Rosario Braid will not mind. Can we have some examples of nongovernmental organizations? Let us say, in the countryside setting, we know that this is derived from the United Nations so that NGOs are generally invited to take part in international conferences, either as observers or as full participants. What are some examples of NGOs which we would like to mandate in this section of the draft Constitution?

MS. ROSARIO BRAID. I think they will be classified into different groups. They could be civic organizations, such as the Rotary Clubs and the Jaycees; development organizations, such as the Assisi foundation; independent organizations, like the NAMFREL; women's organizations, such as the YWCA; and they could also be organizations of businessmen, like the Bishops Businessmen Conference or the Philippine Business for Social Progress.

MR. OPLE. Will this also include, let us say, labor and peasant organizations?

MS. ROSARIO BRAID. Yes, they will be included if they are nongovernmental organizations.

MR. OPLE. Thank you, Madam President.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. Before we vote on this section, may I be clarified? May I know if organizations like the Jaycees, Rotary Clubs, etc., are covered by these nongovernment and community-based organizations? What I have in mind are peasants, lawyers, human rights organizations, not these businessmen's organizations.

MS. ROSARIO BRAID. I mentioned a few, but human rights, farmers and other organizations will form part of this. That is why I mentioned Philippine Business for Social Progress, which is an umbrella organization that supports farmers' organizations. We also have community-based organizations, under which smaller peasant organizations are included.

MR. SARMIENTO. My understanding is that Jaycees and similar organizations are exclusive clubs. Before one becomes a member, he has to pay fees. I do not think these are community-based organizations. This will encourage membership from the masses, from our people. So, is that within the intendment of Section 16?

MS. ROSARIO BRAID. They would fall under nongovernmental organizations as long as they are engaged in activities that promote the welfare of the nation. We will not exclude them really from being participants of beneficial support as long as the activities are directed to social-economic upliftment of the majority of the disadvantaged population.

MR. SARMIENTO. One last question. To the best of my personal knowledge, these organizations are concerned with projects like giving medical aid, giving extra clothing to indigents during Christmas time, and similar other projects. These are the thrusts of the Jaycees and other similar organizations. Are we made to understand that we are going to encourage this kind of organizations within the intendment of Section 16?

MS. ROSARIO BRAID. I think we can add to the records the criteria for organizations that would fall under this. And among these criteria is what the Commissioner has just mentioned – that these organizations contribute to the welfare through a different kind of social service that moves away from dole outs but which, in fact, encourages participation and human development. So, if we add these criteria in the records because we could not add the phrase "PROMOTING HUMAN DEVELOPMENT AND PARTICIPATION," that is really the intent of this provision.

MR. SARMIENTO. If the intent is to do away with dole outs and other similar activities, then I accept the explanation of the committee.

MS. ROSARIO BRAID. Thank you.

THE PRESIDENT. Are we ready now to vote?

MR. GARCIA. Madam President.

THE PRESIDENT. Commissioner Garcia is recognized.

MR. GARCIA. Could we suggest a formulation? Perhaps to make this clear, just add "NON-GOVERNMENTAL, community-based and INDEPENDENT SECTORAL organizations," because I think the intent is to actually mandate the different sectoral organizations besides the nongovernmental and the community-based which would be geographical. The other one would encompass what we were discussing, the trade unions and peasant organizations, and these would be the independent sectoral organizations. So, I think if we reformulate it, that would have a wider coverage.

That is my suggestion to the committee.

MS. ROSARIO BRAID. Will the Commissioner please restate it.

MR. GARCIA. "The State shall encourage NON-GOVERNMENTAL, community-based, AND INDEPENDENT SECTORAL organizations or SECTORAL organizations that promote the welfare of the nation."

MS. ROSARIO BRAID. We accept the amendment.

MR. MONSOD. Madam President, did we maintain the word "INDEPENDENT" or we took it out?

MS. ROSARIO BRAID. No, we are accepting the word "INDEPENDENT."

MR. MONSOD. Yes, but the word "INDEPENDENT" should be applicable to all types of organizations not just to sectoral, why do we not just say "SECTORAL ORGANIZATIONS"?

MR. GASCON. We withdraw the word "INDEPENDENT."

MR. MONSOD. Thank you.

MS. ROSARIO BRAID. Withdrew, yes. So, it will read now: "The State shall encourage NON-GOVERNMENTAL and community-based SECTORAL organizations that promote the welfare of the nation."

MR. MONSOD. This is just a question of clarification. Are these not cumulative?

MS. ROSARIO BRAID. No.

MR. MONSOD. Thank you.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. We change the word "and" after "community-based" to "OR." It should read: "community-based OR SECTORAL."

MS. ROSARIO BRAID. We accept the amendment.

THE PRESIDENT. Will Commissioner Rosario Braid read the amended Section 15 so that we can proceed to a vote?

MS. ROSARIO BRAID. "The State shall encourage NON-GOVERNMENTAL or community-based and SECTORAL organizations that promote the welfare of the nation."

THE PRESIDENT. The word "OR" is placed after "community-based."

MS. ROSARIO BRAID. Yes, I am sorry, the word "OR" is after "community-based." So, again: "The State shall encourage NON-GOVERNMENTAL, community-based OR SECTORAL organizations that promote the welfare of the nation."

VOTING

THE PRESIDENT. As many as are in favor of the new formulation, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 24 votes in favor and 1 against; so, the new Section 15 is approved.

MR. TINGSON. Madam President, Section 16 has something to do about health and we have an expert regarding health in our committee.

Commissioner Quesada is recognized.

MS. QUESADA. Madam President, mindful of the need not to be redundant with the other provisions contained in the Article on Social Justice, we have reformulated our section here on health. This would now read: "THE STATE SHALL FOSTER HEALTH CONSCIOUSNESS AMONG THE PEOPLE." We believe that this was the main thrust of Commissioner Rama's representation when he said that one of the things that our country should develop is the health consciousness among its people which will be cheaper than investing in curative medicine. So, we feel that if this can be a principle that would govern all the instrumentalities of the government to address themselves to developing the health consciousness among the people, then we would be developing a healthy citizenry that would contribute to our economic and social development.

So we have just focused on this particular declarative principle.

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I address a few questions to the Commissioner before voting on this formulated section.

THE PRESIDENT. The Commissioner may proceed.

MR. SARMIENTO. Will the promotion of health consciousness cover giving protection to the health of the people?

MS. QUESADA. Yes, that would be included.

MR. SARMIENTO. Will protecting the health of the people mean giving support and incentives to private hospitals?

MS. QUESADA. Yes.

MR. SARMIENTO. I ask this question because many of the private hospitals are closing down because of bankruptcy. This was the information relayed by several private hospitals, the reason being that the equipments and drugs that they imported are too costly and because of the incapacity of the indigents to pay, hospital expenses could not be collected. Will this mean giving support and incentives to these private hospitals which help in promoting the health of our people, especially the poor ones?

MS. QUESADA. Actually the Commissioner's concern will be covered in our Article on Social Justice, particularly in the section on health where we said there would be a disintegrated comprehensive approach to health development. And in our articulation of the rationale behind this section, we said that there will be the attempt on the part of the State to really have all the sectors, both the government and the private sector, to work together in the promotion of health and in helping people benefit from their right to health. So, that would really be covered, although they have the responsibility to develop health consciousness and, therefore, would receive such support from the State.

MR. SARMIENTO. In other words, it will not be a mere attempt but a real effort on the part of the State to support or to help public and private sectors, meaning, private and public hospitals?

MS. QUESADA. Yes, we believe that if we have given support to education as it delivers educational services to the citizens because the State cannot provide for total education, in the same manner we would call upon the State to provide support to the private sector as they render services so that people will enjoy their right to health.

MR. SARMIENTO. Thank you, Madam President.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Maambong was seeking to be recognized.

MR. MAAMBONG. Yes, Madam President. I was just about to ask the committee if it will consider a suggestion to join Sections 17 and 18 because Section 18 speaks of healthy environment. I wonder if we can put these in one section. That is just my question to the committee. Is that possible?

MS. QUESADA. There is a different concern for the environment. That would not really be appropriate for our concern for health. We are talking about ecological balance as well.

MR. MAAMBONG. Yes, I know; it is ecological balance towards a healthy environment but I was thinking that it falls under the category of health. But that is just a suggestion. If it could be done, that will be fine.

Thank you.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Will Commissioner Quesada answer just one question?

MS. QUESADA. Yes, Madam President.

MR. OPLE. In the new formulation of Section 16, fostering health consciousness among the people, does the committee mean an emphasis on preventive approaches to health and medicine?

MS. QUESADA. Yes, Madam President, which would include education of the people in all settings including labor communities.

MR. OPLE. Yes. Then that will give this section a real modern dimension. Of course, Commissioner Quesada will confirm the fact that one of the great issues facing the medical community of the world is the accusation against the medical profession and the medical community as a whole that preventive approaches to medicine are being systematically neglected since obviously this will mean approaches to health that are not connected with the financial revenues of the medical community. I think this section introduces a modern dimension to the question of health by keeping to this interpretation.

Thank you, Madam President.

MS. QUESADA. The Gentleman is right. We really are stressing the self-reliant roles of individuals as they take care of their health and, therefore, the need for all people to develop that consciousness that will liberate them from dependence on doctors.

THE PRESIDENT. Are we ready to vote now?

Commissioner Suarez is recognized.

MR. SUAREZ. Madam President, may I just clear up one point with Commissioner Quesada?

When we are speaking of fostering health consciousness, I understand from what I have been reading in the newspapers and magazines that this health consciousness business is somehow related to sports or physical exercise. Is that also within the contemplation of fostering health consciousness?

MS. QUESADA. Yes, the development of physical fitness would definitely be part of health consciousness.

MR. SUAREZ. In other words, the favorite subject of our distinguished former Olympian regarding sports development could be integrated within this health consciousness matter.

MS. QUESADA. Yes.

MR. SUAREZ. Thank you.

MS. QUESADA. The consciousness that we refer to will be physical, mental, social and spiritual health.

THE PRESIDENT. Are we ready?

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. May I propose an amendment? It should be reformulated to read: "THE STATE SHALL INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE." So, we will have a different word but with a greater and more embracing mandate.

MS. QUESADA. Would the Gentleman say that "INSTILL" would be more stressful of our concern or would that water down?

MR. DAVIDE. I would believe so. As I say, it is really more declarative of a vigorous mandate.

MS. QUESADA. Madam President, we accept "INSTILL" instead of "foster."

MS. NIEVA. Madam President.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. I was just wondering. We want a very strong declaration of principles as far as health is concerned. Somehow health consciousness for me is just like awareness. Consciousness and awareness do not mean a very active promotion of the health needs of the people. We can be conscious of a lot of things and may not act upon that consciousness.

The first section in the Article on Social Justice states very clearly and strongly: "The State shall protect and promote the right to health." It could be like a flagship, as we have been using this term, that would describe what we really want to cover in the whole section on health.

Is there any possibility that we consider moving the first sentence that was already approved in the Article on Social Justice to that section in the Declaration of Principles to make it very strong?

MS. QUESADA. Could the Commissioner please read the first part of the section on the Article on Social Justice?

MS. NIEVA. "The State shall protect and promote the right to health," which is a very strong and definite mandate to the State, whereas here it is just "shall INSTILL" or "foster" health consciousness. I feel that just being conscious and aware about the importance of health does not necessarily lead to the necessary implementing measures that would promote and protect the right of all the people to health.

MS. QUESADA. The reason we had that formulation in the Article on Social Justice is that this is the area where we had defined the social rights of the citizens, and health being one of those, that they should have such right. So, here is actually a thrust to make our health care become more preventive in orientation rather than having to wait for people to seek medical care when they are already sick.

MS. NIEVA. So, the thrust is just an awareness then.

MS. QUESADA. It is not just an awareness. I do not want to put the words "CRITICAL CONSCIOUSNESS," but it is actually not just knowing the facts about why one needs to brush his teeth and all that.

MS. NIEVA. But actual measures would be included already, and we are providing it there?

MS. QUESADA. Yes, a consciousness that makes people really behave and put into practice what they know about their health; so that they stop smoking, they exercise, they avoid certain foods because they now have this consciousness. So, it is a consciousness that makes people act on what they know. So, it is really what Commissioner Ople said.

MS. NIEVA. Yes, I understand what the Commissioner means, but my personal perception is that it is not strong enough. It does not mandate the State by stating in the Declaration of Principles that this is vital to the total development of the citizens.

MS. QUESADA. Actually, how this would be translated by the State would really be an emphasis on health education program which will be undertaken by all instrumentalities we have in society. It could be the mass media making people become more conscious about what they need to do. So, instead of purely entertainment, we can use the media to instill consciousness among our people and there will be a reorientation in all the settings. In schools, for example, there would be this mandate on the State to improve health education so that it will not just be wedded with physical education or character education and taught during unholy hours like 12:00 to 1:00. This would have such implications for a redirection in the thrust.

SUSPENSION OF SESSION

THE PRESIDENT. We will continue this dialogue after we suspend the session for a few minutes.

It was 4:51 p.m.

RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. ROMULO. I ask that Commissioner Nieva be recognized.

MR. MONSOD. She is not yet here.

MR. ROMULO. I ask that Commissioner Monsod be recognized.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I was thinking of a formulation that would combine Sections 17 and 18, not Sections 16 and 17, incorporating the comments of Commissioner Nieva: "The State shall PROTECT AND PROMOTE THE RIGHT OF THE PEOPLE TO HEALTH AND A BALANCED ECOLOGICAL ENVIRONMENT."

MR. SARMIENTO. Madam President.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. In the absence of Commissioner Nieva, may I respectfully speak in her behalf because before we suspended the session, she wished to propose an amendment by combining the first sentence of Section 11 on the Article on Social Justice and a portion of Section 16 so that the proposed amendment will read as follows . . .

May I yield the floor to Commissioner Nieva, Madam President, because she is here.

THE PRESIDENT. Commissioner Nieva is recognized.

MS. NIEVA. Yes, it will read: "The State SHALL PROTECT AND PROMOTE THE RIGHT TO HEALTH AND INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE."

THE PRESIDENT. Yes, there is a proposal now of Commissioner Monsod to combine Sections 17 and 18.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. I manifested to Commissioners Nieva and Sarmiento that I was joining them in this proposal. But instead of saying "PROTECT AND PROMOTE THE RIGHT TO HEALTH," I was going to suggest that we delete the word "RIGHT" and say "TO PROTECT AND PROMOTE THE HEALTH OF THE PEOPLE." I think we should concern ourselves with the promotion and protection of health.

THE PRESIDENT. How about the proposal of Commissioner Monsod to combine Sections 17 and 18?

MR. GASCON. Madam President, I would like to react to the proposal of Commissioner Monsod.

THE PRESIDENT. Commissioner Gascon may please proceed.

MR. GASCON. I would like to object to the proposal because I think the two sections are different in the sense that the first speaks of the health of the individual and the responsibility of the State to ensure the optimum health of individual persons. The second speaks of the environment, the ecology. For purposes of delineating the two concepts, it would be best, from my point of view, to separate the two because, in fact, there is a very strong movement now throughout the world calling for everyone to take a second look at our ecology and environment as a determining force in the issues of economic programs and policies, politics, and even social life. So, to maintain the purity of the concept of ecology and the environment, as well as the issue of health of individuals, I would like to request Commissioner Monsod to separate the two concepts, if it is possible.

MR. MONSOD. My only argument is that when one talks about health, that is an internal matter. So, internal and external are interacting and, therefore, we should protect both the individual health and the environment in which he lives.

MR. GASCON. Yes, we agree totally with that. However, as I said, there are two different concepts – one is the issue of ecology and environment; the second is individual health. Although they are related in the sense that just as much as we want to protect the health of the individual, we must also protect the health of the environment, the issue, I think, merits some delineation.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. The two sections on health and environment are undoubtedly linked, but not to a degree that they have to be merged.

To be sure, we ought to have a strong and powerful statement in the Declaration of Principles concerning the ecology in terms of its impact on health, but also for other equally humane and noble purposes and having in mind the danger of the exhaustion of resources. In the case of forests, this can mean eternal flooding. And so, I think that section can stand apart. But does Commissioner Monsod find anything unbearable in the present formulation of Section 16?

On the matter of the right to health, I think Commissioner Quesada is right. It should be retained in the Article on Social Justice, because the right to health of the rich and the right to health of the poor may be imbued with certain critical nuances that call for a social justice declaration on health. I think the committee is right in wanting to focus on fostering health consciousness among the people as a declaration of principles because a nation that has risen to a state of consciousness for itself and the health of its members will make so many hospitals and so many expensive outlays on social services in the field of health unnecessary. There is a very strong initial movement now in the medical profession, exemplified by the American school of Major Kenneth Cooper, which holds that this is the key to the future health of mankind. It may put the doctors out of order and may be leaving the nurses later on to be more important, because when one takes a preventive approach to health, he is making the large outlays for curative medicine unnecessary. One will permit mistakes to realize ample, perhaps, unheard-of savings, if the nation has risen to a state of health consciousness that makes it capable of preventing rather than treating diseases.

It is, therefore, on that basis that I would like to align myself with the committee regarding Section 16.

THE PRESIDENT. May we hear now from Commissioner Quesada, with respect to Commissioner Monsod's suggestions and may we also hear the formulation of Commissioners Sarmiento and Nieva.

MS. QUESADA. During the break, there was a representation from some other Members of the Commission who convinced the members of the committee to reconsider the proposal of Commissioners Nieva, Sarmiento, Davide, Gascon, Garcia and Guingona to merge the first sentence of Section 1 of the health section, which reads: "THE STATE SHALL PROMOTE AND PROTECT THE RIGHT TO HEALTH AND INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE." The succeeding sentence in this health section would already be the process by which the State can promote and protect such right.

THE PRESIDENT. So, the committee submits this now as the new formulation?

MS. QUESADA. The new formulation, although with the recognition of the importance that we have given to health consciousness, clearly enunciated by Commissioner Ople, would still be there except that some felt the mandate will be stronger if the first sentence of the health section is placed in the Declaration of Principles. The committee acceded to such representation during the break. So, it will now read: "THE STATE SHALL PROMOTE AND PROTECT THE RIGHT TO HEALTH AND INSTILL HEALTH CONSCIOUSNESS AMONG THE PEOPLE."

THE PRESIDENT. How about the proposals of Commissioner Monsod to combine the two sections?

MS. QUESADA. We have also talked about that, and we would appeal to Commissioner Monsod to let the provision that we have reformulated for so many times already remain as it is – a separate provision for ecology and another one for health.

THE PRESIDENT. What is the new Section 16?

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. In view of the appeal of the committee, I will withdraw my amendment and deal with it in the next section.

MS. QUESADA. Thank you very much, Madam President.

MR. GUINGONA. Madam President.

THE PRESIDENT. Commissioner Guingona is recognized.

MR. GUINGONA. Regarding my earlier remarks, I had a talk with Commissioner Nieva, and she explained to me that the wordings that she read are the wordings found in the Article on Social Justice and, therefore, I would like to manifest that I am supporting the formulation of Commissioner Nieva as accepted by the committee without qualification.

MS. QUESADA. Thank you, Madam President.

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla is recognized.

MR. PADILLA. Section 11 on health in the Article on Social Justice reads: "THE STATE SHALL PROTECT AND PROMOTE THE RIGHT TO HEALTH." It seems that this will be repeated under Section 17 and with practically the same words.

MS. QUESADA. Madam President.

MR. PADILLA. Would that mean a transposition of the first sentence of Section 11 to the Declaration of Principles?

MS. QUESADA. Yes. Madam President, we have just stated that it will be a transposition – "transportation," according to Commissioner Davide – of the first line of the health section on the Article on Social Justice and incorporated with the concept of instilling health consciousness among the people. So, it will not be a repetition anymore since we are removing that in the Social Justice Article.

MR. PADILLA. Thank you.

THE PRESIDENT. Are we ready to vote now?

MR. SARMIENTO. Madam President, just one question and I will be very happy.

THE PRESIDENT. Commissioner Sarmiento is recognized.

MR. SARMIENTO. In the course of the interpellation, the Gentleman has stated that it is possible that the State will give support to private hospitals because of their financial conditions. Will this mean possible tax exemption? I ask this question because I am reminded of this *Hospital Journal,* a quarterly publication of the Philippine Hospital Association. It disclosed that during the past two years alone, a Philippine Hospital Association survey has shown that more than 70 private hospitals in the country have declared bankruptcy, have closed or in the process of being foreclosed by their creditors, meaning, the financial lending institutions. So, may I be clarified on this point.

MS. QUESADA. We shall leave this to Congress to deliberate on.

MR. SARMIENTO. The matter of tax exemption?

MS. QUESADA. Yes, and all the other incentives that private hospitals have already been receiving for the past years. As early as 1975, we have already worked this out during a national tripartite conference on the assistance that the government should provide to the private health care industry.

MR. SARMIENTO. Thank you, Madam President.

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Did I hear the Honorable Quesada state that the first sentence of Section 11 under the Article on Social Justice will be transposed to the Declaration of Principles?

MS. QUESADA. Yes, the Gentleman has heard it right and this has been the proposal of the chairman of the Committee on Social Justice and the other Commissioners.

MR. DE CASTRO. I do not believe that will be possible under our Rules, Madam President, because we have already laid to rest – using the words of Honorable Davide – the provisions on Social Justice. We have already closed the period of amendments, the debates and we have already approved on Second Reading the Article on Social Justice. The best thing that can be done would be a suspension of the Rules and a motion for reconsideration.

MS. QUESADA. If there is no objection from the floor, then we can do that. I think we have done that in the past.

MR. DE CASTRO. What, for example?

MS. QUESADA. Like the social justice provision on all the phases of national development. That was the first sentence which is the flagship section of the Article on Social Justice.

MR. DE CASTRO. Would the Commissioner not be comfortable if we leave that in the Article on Social Justice and take it out from the Declaration of Principles so that we can be saved from the suspension of the Rules and motion for reconsideration?

MR. NOLLEDO. As far as the committee is concerned, there is no motion for reconsideration. We are not discussing the merits of the proposal that we have approved. We are not going into the substance. We are merely transposing it to another section. So we do not actually violate the Rules.

THE PRESIDENT. In fact, this can be done by the Committees on Style and Sponsorship.

MR. DE CASTRO. Thank you.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Just a very minor point. The sentence sought to be transposed reads: "THE STATE SHALL PROTECT AND PROMOTE THE RIGHT TO HEALTH." The reading of the section now by Commissioner Quesada states: "THE STATE SHALL PROMOTE AND PROTECT." So, which is which? Which will come ahead?

MS. QUESADA. I stand corrected. It shall be: "THE STATE SHALL PROTECT AND PROMOTE" as was stated in the Article on Social Justice.

MR. MAAMBONG. Thank you, Madam President.

VOTING

THE PRESIDENT. As many as are in favor of this new Section 16, as read by Commissioner Quesada, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 23 votes in favor and none against; the new Section 16 is approved.

MR. TINGSON. Madam President.

THE PRESIDENT. The chairman is recognized.

MR. TINGSON. The committee's new formulation of Section 17 reads: "The State recognizes the RIGHT OF EVERY PERSON to a HEALTHFUL environment and the singular demand of nature to follow its own rhythm and harmony. IT shall therefore PROTECT, RESTORE AND ENHANCE THE ecological balance FOR the sustenance of THIS AND future generations."

I am going to hand it over to Commissioner Azcuna for answers to whatever questions will be asked.

MR. MAAMBONG. Madam President.

THE PRESIDENT. Commissioner Maambong is recognized.

MR. MAAMBONG. Just to keep our records straight, may I formally present a motion, Madam President? I move that the first sentence of Section 11 on the Article on Social Justice be transposed to Section 17 of the Article on the Declaration of Principles and State Policies, with instruction to the Committees on Style and Sponsorship to so indicate this transposition.

I so move, Madam President.

THE PRESIDENT. That is Section 17.

MR. MAAMBONG. Yes.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. MAAMBONG. I likewise move, Madam President, that the first sentence of Section 1 of the Article on Social Justice which says, "The State shall promote social justice in all phases of national development," be transposed to the new section in the Article on the Declaration of Principles and State Policies.

I so move, Madam President.

MR. OPLE. Madam President, before we act on the motion of Commissioner Maambong, may I just ask whether this same approach to transpositions or this precedent, with respect to articles already approved, after a lapse of time beyond the 48 hours provided for in the Rules, will apply to all future proposals for transpositions without the formality of reopening or a motion for reconsideration? I just wanted the Rules to be interpreted now so that this question need not arise in the future, before we act on the motion of Commissioner Maambong.

THE PRESIDENT. What does Commissioner Maambong say?

MR. MAAMBONG. Madam President, this matter of transposition does not really affect any substance of the provisions. What we are only trying to do is to transfer it to its proper place. So, to my mind, there is no need for a motion for reconsideration or suspension of the Rules because we are not deleting any portion; we are not changing the substance; we are using practically the same words. As a matter of fact, this properly belongs to the Committees on Style and Sponsorship, but we are just trying to effectuate this in a more orderly manner.

MR. OPLE. If that is the understanding, then I think this clears up the doubt in my own mind, at least.

THE PRESIDENT. Thank you.

BISHOP BACANI. Madam President.

THE PRESIDENT. Commissioner Bacani is recognized.

BISHOP BACANI. May I be clarified by Commissioner Maambong if, when he proposes this transfer, it means that the sentence will no longer appear in the Article on Social Justice?

MR. MAAMBONG. It will no longer appear, Madam President.

BISHOP BACANI. Then, how will the second sentence sound like if we remove that? I do not remember the full sentence.

MR. MAAMBONG. Precisely, that would be the subject matter of the next motion which I was about to present.

BISHOP BACANI. I think we should spend more time in deciding this. If we transpose something, like transposing part of my hand to my feet, then, of course, we are not changing the substance of my hand apparently but it may not look as nice anymore, and the likes of this may be happening here. We approve them precisely within the context of said articles. I remember yesterday there was a long discussion for the transposition of one sentence to the Article on Social Justice. So, I think, we should be more careful about these transpositions.

MR. MAAMBONG. Madam President, the point of Commissioner Bacani is well taken. That is precisely why I was about to request the Chair to instruct the Committee on Sponsorship and the Committee on Style as regards Section 1 of the Article on Social Justice wherein the words "in pursuit thereof" should be taken out and the sentence will now start with: "Congress shall give highest priority." This is to solve the problem of Commissioner Bacani.

And in the case of Section 11 of the Article on Social Justice, instead of the words in the second sentence, "to this end it shall adopt," it will read: "THE STATE shall adopt an integrated and comprehensive approach to health development. . ." It will not change the meaning. There is nothing new in this formulation. It is only a matter of realigning it in order that the sentence will not look awkward.

THE PRESIDENT. We will take note of this as a suggestion to the Committees on Style and Sponsorship when they come to this particular section.

MR. MAAMBONG. Thank you, Madam President.

MR. JAMIR. Parliamentary inquiry, Madam President.

I remember that Commissioner Suarez raised the question on whether or not upon the transfer of the Romulo amendment to the Article on Transitory Provisions, the formulation of the Romulo amendment could be subject to change or amendments, and the Chair ruled then that in due time the Chair would announce its ruling on the matter. Will this procedure that we are adopting constitute a precedent with respect to that particular matter?

THE PRESIDENT. The situations are not similar. In other words, this is a case where a particular portion has been approved in a section and which is now believed to be properly placed in the Declaration of Principles. So, there is no similarity between the two.

MR. JAMIR. Thank you, Madam President.

MR. DE CASTRO. Madam President, inquiry only.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

We are transposing the first sentence of Section 11 of the Article on Social Justice to the Declaration of Principles. If we do that, the second sentence in Section 11 will have no meaning.

THE PRESIDENT. That is why Commissioner Maambong was making some suggestions for the consideration of the Committees on Style and Sponsorship, without changing the substance. It is just a question of styling now because of the transposition of this first sentence.

MR. DE CASTRO. If the Committee on Style will put some sense in the second sentence of Section 11, it will have to change some statements because the second sentence of Section 11, if we take away the first sentence, will have no sense or meaning.

SUSPENSION OF SESSION

THE PRESIDENT. The session is suspended.

It was 5:44 p.m.

RESUMPTION OF SESSION

At 5:56 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Madam President, I would like to ask for a reconsideration of the ruling on the Maambong motion because I would like to present a different proposal.

THE PRESIDENT. Is there any objection?

MR. MAAMBONG. I have no objection as the proponent of the motion, Madam President.

THE PRESIDENT. There is no objection; the said ruling is reconsidered.

MR. AZCUNA. Thank you, Madam President.

I would like to propose that instead of transposing certain sentences from the articles that are already approved into the Declaration of Principles, we will just copy those sentences without transferring them. And then we will just direct the Sponsorship Committee to harmonize the two by deleting later on the copied sentences from the original articles and retaining them in the Declaration of Principles.

MR. MAAMBONG. I will have no objection to that, Madam President, as long as it will have the same effect as transferring the words in Sections 11 and 1 of the Article on Social Justice to the proper section in the Declaration of Principles. What I am only worried about is that if that discretion is given entirely to the Committee on Sponsorship and the Committee on Style, then the said committees may not transfer the sentence to the proper section in the Declaration of Principles. But with that understanding, I have no worry about that.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. Madam President, I believe we should just allow the duplication and then the Sponsorship Committee or Style Committee can make a recommendation after which we will have to follow the Rules at a time when the issue arises.

MR. AZCUNA. Yes.

MR. MONSOD. There is no authority to each committee to do that.

MR. AZCUNA. Yes, with that understanding.

The chairman of the Sponsorship Committee is about to seek recognition.

THE PRESIDENT. Yes, but excuse me. The Sponsorship Committee, I believe, should be guided by the decision of the body as to where that particular sentence will be – whether it should remain in the section on the Article on Social Justice or in the Declaration of Principles.

MR. AZCUNA. Yes, without guiding them, Madam President, or without necessarily taking away all discretion from them.

THE PRESIDENT. Yes, just guide them.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

Shall we debate on all these?

MR. MONSOD. No, I just wanted to find out. Is it clear that the Rules will have to be observed at the time?

MR. AZCUNA. The Rules will have to be observed. That is right.

MR. GUINGONA. Madam President, on behalf of the Sponsorship Committee, we will do whatever the Commission decides on this matter.

MR. AZCUNA. Thank you.

THE PRESIDENT. Is there any section that we should approve?

MR. AZCUNA. Yes.

THE PRESIDENT. The chairman of the committee is recognized.

MR. TINGSON. Yes, Madam President, we will request Commissioner Azcuna.

MR. AZCUNA. I move, Madam President, that the words that were supposed to be transposed from the Article on Social Justice to the Declaration of Principles be merely copied instead of being transposed, thereby creating a duplication which the Sponsorship Committee can harmonize under the Rules.

MR. OPLE. I second the motion.

MR. MAAMBONG. Madam President.

THE PRESIDENT. The Chair believes that actually there will be no need for that. What we have to do now is to approve a section. Have we approved that section already?

MR. AZCUNA. Yes, we will just approve a section that is worded in the same way.

THE PRESIDENT. Yes, in the same way; that is all.

MR. AZCUNA. That is right; that is the motion.

MR. MAAMBONG. Madam President, what I am actually saying is that there is no need for the motion. The motion which I presented and which was approved by the Chair can be considered. All the words are now back to Section 1 and Section 11.

THE PRESIDENT. That is right.

MR. AZCUNA. I withdraw the motion then, Madam President.

THE PRESIDENT. That is why the Chair was asking what the section is that we will vote upon.

MR. AZCUNA. The next section that we will vote upon is Section 17, formerly Section 18, Madam President.

MR. TINGSON. Section 17.

MR. AZCUNA. This is on the right to a healthful environment. We have a new committee formulation, Madam President.

MR. TINGSON. Section 17 will read: "The State recognizes the right of a person to a healthful environment and the singular demand of nature to follow its own rhythm and harmony. It shall, therefore, protect, restore and enhance ecological balance for the sustenance of this and future generations."

MR. AZCUNA. This particular formulation is due to the efforts and coauthorship of Commissioners Garcia, Guingona, Bengzon, Rigos and myself, Madam President.

MR. OPLE. Madam President, will the proponent yield to a question?

MR. AZCUNA. Willingly, Madam President.

THE PRESIDENT. Please proceed.

MR. OPLE. "The singular demand of nature to follow its own rhythm and harmony" – that is a very charming language.

MR. AZCUNA. Thank you, Madam President.

MR. OPLE. And this is, of course, to be read in the context of what precedes it – "a healthful environment."

MR. AZCUNA. That is correct, Madam President.

MR. OPLE. Is there a kind of pantheistic dimension to this statement so that, in effect, a regression to a state of nature for humanity is endorsed? An example is the Tasaday community. Let us not talk about the controversial character of its authenticity, but does Commissioner Azcuna refer to the "singular demand of nature to follow its own rhythm and harmony" in the sense that Stone Age civilization might be singularly preferable to, let us say, a more advanced but, at the same time, a more strife-ridden culture? It is said that the Tasadays do not have the word "war" in their vocabulary. It is said that they are living in perfect harmony. But we also know that man in a state of nature is a savage, and that is why we know about the noble savage. This is certainly not contemplated. It is an ideal state of human society in the second part of the first sentence in Section 18.

MR. AZCUNA. No, Madam President, we have precisely no intention of being atavistic in this particular formulation, but, rather, merely to respect the laws of nature which, if violated, have their own violent reactions, such as when one tries to denude a forest and there is flood. As the Gentleman has mentioned earlier, there is, therefore, merely a demand for balance in the environment.

MR. OPLE. There are no tacit choices expressed as to the preferable state of human culture and civilization.

MR. AZCUNA. None, Madam President.

MR. OPLE. This deals only with ecology in terms of the natural resources and the rhythm of nature.

MR. AZCUNA. That is correct.

MR. OPLE. Thank you very much, Madam President.

MR. AZCUNA. The Gentleman is welcome.

MR. VILLACORTA. Madam President.

THE PRESIDENT. Commissioner Villacorta is recognized.

MR. VILLACORTA. Would the proponent yield to some questions?

MR. AZCUNA. Willingly, Madam President.

MR. VILLACORTA. Does this section mandate the State to provide sanctions against all forms of pollution – air, water and noise pollution?

MR. AZCUNA. Yes, Madam President. The right to healthful environment necessarily carries with it the correlative duty of not impairing the same and, therefore, sanctions may be provided for impairment of environmental balance.

MR. VILLACORTA. Correspondingly, does this mean that under this section there will be protection provided to human communities surrounding airports, military bases and factories?

MR. AZCUNA. There may be insofar as such mentioned matters contribute to harming the environment or the quality of the human environment.

MR. VILLACORTA. In other words, it is protection not only to the life and limb of these human communities but to their psychological welfare as well.

MR. AZCUNA. Insofar as it relates to causes from the environment such as noise, for example, which is considered as a form of pollution. This may be controlled or regulated under this provision, Madam President.

MR. VILLACORTA. Thank you very much, Madam President.

MR. AZCUNA. The Gentleman is welcome.

MR. SUAREZ. Madam President.

THE PRESIDENT. Commissioner Suarez is recognized.

MR. SUAREZ. Thank you.

I wonder if the proponent would entertain an amendment by substitution. This is a simple sentence that Commissioner Monsod and myself had been working on and the sentence will read simply like this: "THE STATE SHALL PROTECT AND ENHANCE A BALANCED ECOLOGICAL ENVIRONMENT FOR THE PRESENT AND FUTURE GENERATIONS."

MR. AZCUNA. That sounds good to me, Madam President. May the Gentleman repeat it.

MR. SUAREZ. Yes. "THE STATE SHALL PROTECT AND ENHANCE A BALANCED ECOLOGICAL ENVIRONMENT FOR THE PRESENT AND FUTURE GENERATIONS."

I think the thrust of what the proponent has in mind is already integrated in this expression because the words "BALANCED ECOLOGICAL ENVIRONMENT" not only for the present but also for the future generations are already included.

MR. AZCUNA. Yes. My problem there is, it does not state the right to a healthy or healthful or clean environment which is, in modern development, considered a right of every person with the correlative duty of non-impairment. I wonder if we could somehow put it in the duty or responsibility of the State to protect and enhance the ecological environment.

MR. SUAREZ. Taking into consideration the factor which the Gentleman has brought out, probably, it could be further amended to read: "IT SHALL PROTECT AND ENHANCE THE RIGHT OF THE PEOPLE TO A BALANCED ECOLOGICAL ENVIRONMENT FOR THE PRESENT AND FUTURE GENERATIONS."

SUSPENSION OF SESSION

MR. AZCUNA. May we ask for a suspension, Madam President?

THE PRESIDENT. The session is suspended.

It was 6:09 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed.

THE PRESIDENT. The session is resumed.

Commissioner Azcuna is recognized.

MR. AZCUNA. Madam President, we have a reformulation which is the combined poetic effort of all the Commissioners here present, namely: Commissioners Garcia, Guingona, Bengzon, Rigos, Ople, Jamir, Monsod, Villacorta, Suarez, Davide, Aquino, Quesada, Gascon, Rosario Braid, Nolledo . . :

THE PRESIDENT. Are there so many poets here?

MR. AZCUNA. There are so many poets, Madam President. *(Laughter)*. And it reads as follows: "THE STATE GUARANTEES THE RIGHT OF THE PEOPLE AND THEIR POSTERITY TO A BALANCED AND HEALTHFUL ECOLOGICAL ENVIRONMENT IN ACCORD WITH THE SINGULAR DEMAND OF NATURE TO FOLLOW ITS RHYTHM AND HARMONY."

MR. PADILLA. Madam President.

THE PRESIDENT. Commissioner Padilla does not seem to agree. *(Laughter)* What does he say?

MR. PADILLA. If we were writing a poem, that phrase "rhythm and harmony" may have some place, but not in a Constitution, and much less in the Declaration of Principles. Madam President, in fact, this Section 17 is within the inherent power of the State under its police power. In fact, the Civil Code has provisions on nuisances under Article 6, line 4, which provides that a nuisance is any act, commission, establishment, business, condition or property or anything else which: (1) injures or endangers the health or safety of others; (2) annoys or offends the senses; (3) shocks, defies or disregards decency or morality; (4) obstructs or interferes with the free passage of any public highway or street or any body of water; and (5) hinders or impairs the use of property.

And then it provides for nuisances *per se* or *per accidens,* and public or private nuisances.

So, if we must be prevailed upon to include a provision in the Declaration of Principles, to which I do not exactly concur, let us make it simple, similar to what was suggested by Commissioner Suarez. Or if we want to preserve some of the wordings of the committee report, let us just simply say: "THE STATE RECOGNIZES THE HUMAN RIGHT TO HEALTHFUL ENVIRONMENT AND TO ECOLOGICAL BALANCE OF NATURE" or adopt what Commissioner Suarez suggested, because it is not necessary to say "FOR THIS AND FUTURE GENERATIONS" or "FOR NOW AND POSTERITY." It is understood that whatever we do here is intended for the general welfare of all the people now and tomorrow.

On the question of environment, balanced ecology may be disrupted by, for example, the striking out of trees especially the deforestation or the denudation of our forests, because trees, I understand, absorb carbon dioxide and emit oxygen, and that is good for the human body. Water, which is stagnant, will also create problems not only from possible diseases, germs, et cetera. And if water is not stagnant but running, there is less chance of nonecological balance.

And so, I am against the new formulation, especially when it mentions "THE SINGULAR DEMAND OF NATURE FOR RHYTHM AND HARMONY." These may be beautiful words, but they have no substantial meaning.

MR. OPLE. Madam President.

THE PRESIDENT. Commissioner Ople is recognized.

MR. OPLE. Am I entitled to three minutes?

THE PRESIDENT. Yes, three minutes.

MR. OPLE. Thank you, Madam President.

I just wanted to express my disagreement with Commissioner Padilla concerning this section. I do appreciate his demand and concern for simplicity and clarity, and I think this section meets that standard and somewhat exceeds it, I suppose, in terms of this phrase that has been described as poetic, which undoubtedly it is, but which is far from being meaningless. It speaks of a balanced and healthful ecological environment in accord with the singular demand of nature for rhythm and harmony. I believe this is far from being a meaningless or a hollow statement. It conveys a powerful sense of the very real problems that we face. Having violated the rhythm and harmony of nature with the rape of our forests and lakes, we have to take seriously the admonitions of many experts that if nothing drastic is done by the government and the people in 50 years, we can be a desert, Madam President. Our lakes are already dying. The Laguna de Bay, according to most experts, can literally die in 20 years if nothing gets done now. In my own Province of Bulacan, the pollution problem is beginning to feed an insurrectionary atmosphere among many fishermen, for example. Farms and rivers which are the only means of sustenance for many thousands of families are being irreparably damaged by pollution from some chemical companies there.

And so, I think, a statement on ecology this powerful and attractive should have a place in the Declaration of Principles.

Thank you, Madam President.

MR. DAVIDE. Madam President.

THE PRESIDENT. Commissioner Davide is recognized.

MR. DAVIDE. I agree in full with the proposal of the committee, but to shorten it, may I just move for the deletion of the words "THE SINGULAR DEMAND OF NATURE TO FOLLOW." So, it will only read: "IN ACCORD WITH THE RHYTHM AND HARMONY OF NATURE."

THE PRESIDENT. What does the committee say? Commissioner Azcuna is recognized.

MR. AZCUNA. We accept, Madam President.

MR. MONSOD. Madam President.

THE PRESIDENT. Commissioner Monsod is recognized.

MR. MONSOD. May we also change the word "GUARANTEES" to "PROTECTS"? Instead of "GUARANTEES," place "PROTECTS," because the word "GUARANTEES" would be used the first time in the Constitution and somehow it sounds like a financial transaction.

MR. OPLE. Will Commissioner Monsod agree with the words "TO PROTECT AND ADVANCE THE RIGHT"?

MR. MONSOD. I think those were the words of Commissioner Suarez.

MR. OPLE. "Advance" is stronger than "enhance."

MR. MONSOD. I will leave that to the committee. I was just taking issue with the word "GUARANTEES."

MR. OPLE. Thank you.

THE PRESIDENT. So, how will this new section now read?

MR. AZCUNA. The new section will now read: "THE STATE SHALL, PROTECT AND ADVANCE THE RIGHT OF THE PEOPLE AND THEIR POSTERITY TO A BALANCED AND HEALTHFUL ECOLOGICAL ENVIRONMENT IN ACCORD WITH THE RHYTHM AND HARMONY OF NATURE."

MR. GASCON. Madam President, parliamentary inquiry.

THE PRESIDENT. Commissioner Gascon is recognized.

MR. GASCON. Did Commissioner Padilla propose an anterior amendment?

THE PRESIDENT. I do not think there was any. He was just making a suggestion.

MR. GASCON. So, we shall be voting on the committee proposal then.

THE PRESIDENT. Yes, taking into account the objections of Commissioner Padilla.

Commissioner Bennagen is recognized.

MR. BENNAGEN. I have been involved in the environmental movement for sometime. But this is the first time I heard about ecological environment. Why not simply say "balanced ecology"?

MR. AZCUNA. The ecological environment, Madam President, refers to the total human environment.

MR. BENNAGEN. That is the meaning of ecology.

MR. AZCUNA. Yes.

MR. BENNAGEN. But why "environment"? What I am saying is, just use "ecology" instead of "ecological environment."

MR. AZCUNA. We accept, Madam President.

MR. MONSOD. I just want to ask, Madam President: Is the committee willing to accept "ADVANCE"? It sounds like a military operation.

MR. AZCUNA. How about "ENFORCE"?

MR. OPLE. Since I suggested the word "ADVANCE," Madam President, may I have the floor for just a minute.

I think advancing the right of people is nothing odd nor curious. We encounter this in all literature, but especially with respect to human rights, the rights of the poor, enhancing a right is out of place. One cannot enhance a right. There are no degrees of rights but advancing the right of the people to a sound ecology is perfectly in order and there is a resonance to it which ought not to be begrudged when we speak of a strong and powerful statement on ecology and health.

Thank you.

THE PRESIDENT. Are we ready now for the formulation?

MR. AZCUNA. May I read it once more, Madam President: "THE STATE SHALL PROTECT AND ADVANCE THE RIGHT OF THE PEOPLE AND THEIR POSTERITY TO A BALANCED AND HEALTHFUL ECOLOGY IN ACCORD WITH THE RHYTHM AND HARMONY OF NATURE."

MR. ROMULO. Madam President, may I suggest the deletion of "POSTERITY" for the sake of economy of words, because I think Commissioner Padilla is right. What we pass here is for now and the future.

MR. AZCUNA. "THE PEOPLE" means the present and future generations; we agree.

MR. ROMULO. Yes.

VOTING

THE PRESIDENT. As many as are in favor of the new Section 17, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

The results show 22 votes in favor and one against; so, the new Section 17 is approved.

MR. ROMULO. Madam President.

ADJOURNMENT OF SESSION

MR. TINGSON. Madam President, it has been a long day of rhythm and harmony and to add rhyme and reason to it, we suggest that we adjourn.

THE PRESIDENT. What does the Acting Floor Leader say?

MR. ROMULO. Madam President, in the interest of the committee's biorhythm, I support the motion to adjourn until nine-thirty tomorrow morning.

THE PRESIDENT. The session is adjourned until tomorrow at nine-thirty in the morning.

It was 6:33 p.m.

R.C.C. NO. 90

Tuesday, September 23, 1986

OPENING OF SESSION

At 10:02 a.m., the President, the Honorable Cecilia Muñoz Palma, opened the session.

THE PRESIDENT. The session is called to order.

NATIONAL ANTHEM

THE PRESIDENT. Everybody will please rise to sing the National Anthem.

Everybody rose to sing the National Anthem.

THE PRESIDENT. Everybody will please remain standing for the Prayer to be led by the Honorable Efrain B. Treñas.

Everybody remained standing for the Prayer.

PRAYER

MR. TREÑAS. Almighty God, we are about to finish writing the Constitution. We are about to end a significant milestone in the history of our people in their quest for a Constitution truly reflective of their ideals and aspirations. To be sure, we have exerted our utmost efforts to hear the voices of the people. And as many as these voices are, many are also the views and ideas expressed by them. In the same manner, the thoughts and perspectives of the Commissioners differ from one another. These differences are perceptible in issues of tremendous impact on our people. But while disagreement is inevitable, we know very well that we are united in one supreme goal, and this goal, to express it quite simply, is to promote and protect the common good.

We submit to Your divine will. We surrender to Your divine wisdom. Therefore, as we are about to reach our final destination, we humbly pray that You give us the wisdom and the vision to see what else we need to include in the new Constitution, and to omit whatever is unnecessary and should not be included therein. So that after we shall have left these august halls – these halls which hear our speeches and debates, these halls which feel our dreams and hopes - we will be reassured and restrengthened in the knowledge that we have given to our people the best Constitution possible.

Finally, I wish to thank You for returning to me health and vigor so that I may continue the task You have assigned to me.

This we pray through Your Son, Jesus Christ. Amen.

THE PRESIDENT. We wish to acknowledge the presence of students from St. Paul College and the Pamantasan ng Lungsod ng Maynila.

ROLL CALL

THE PRESIDENT. The Secretary-General will please call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	Present*	Natividad	Present*
Alonto	Present*	Nieva	Present
Aquino	Present*	Nolledo	Present*
Azcuna	Present	Ople	Present*
Bacani	Present	Padilla	Present
Bengzon	Present	Quesada	Present
Bennagen	Present	Rama	Present
Bernas	Present	Regalado	Absent
Rosario Braid	Present	Reyes de los	Present*
Calderon	Present*	Rigos	Present
Castro de	Present	Rodrigo	Present
Colayco	Present	Romulo	Present
Concepcion	Present	Rosales	Absent
Davide	Present*	Sarmiento	Present
Foz	Present	Suarez	Present
Garcia	Present*	Sumulong	Present
Gascon	Present*	Tadeo	Present*
Guingona	Present	Tan	Present
Jamir	Present	Tingson	Present
Laurel	Absent	Treñas	Present
Lerum	Present*	Uka	Present
Maambong	Present	Villacorta	Present
Monsod	Present	Villegas	Present

The President is present.

The roll call shows 31 Members responded to the call.

THE PRESIDENT. The Chair declares the presence of a quorum.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

MR. RAMA. I move that we dispense with the reading of the Journal of yesterday's session.

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*Appeared after the roll call

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. RAMA. Madam President, I move that we approve the Journal of yesterday's session.

MR. AZCUNA. Madam President.

THE PRESIDENT. Commissioner Azcuna is recognized.

MR. AZCUNA. Madam President, on page 20 of the Journal of yesterday's session where we defined the rights of women, may we ask that the proposal, as finally approved, be indicated as Section 11. On page 29, it says:

> Thereafter, Section 11 was submitted to a vote and with 28 Members voting in favor and none against, the same was approved by the Body.

I move that immediately before that paragraph, we insert the proposal which was approved as follows: "SECTION 11. THE STATE RECOGNIZES THE ROLE OF WOMEN IN NATION-BUILDING AND SHALL ENSURE THE FUNDAMENTAL EQUALITY BEFORE THE LAW OF WOMEN AND MEN."

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved. Let the corresponding insertion be made.

The Chair would like also to call the attention of the Members to the second paragraph on page 29, which is a reproduction of Section 11. We should erase "MEN AND," so it would read: "THE STATE RECOGNIZES THE ROLE OF WOMEN . . ."

Is there any further correction?

MR. ROMULO. Madam President.

THE PRESIDENT. Commissioner Romulo is recognized.

MR. ROMULO. Madam President, may I just manifest that my cosponsors for Section 11 are Commissioners Azcuna, Padilla and Aquino.

APPROVAL OF JOURNAL

THE PRESIDENT. There being no further observations, the Journal of yesterday's session is hereby approved.

MR. RAMA. Madam President, I move that we proceed to the Reference of Business.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The Secretary-General will read the Reference of Business.

REFERENCE OF BUSINESS

The Secretary-General read the following Communications and Committee Report, the President making the corresponding references:

COMMUNICATIONS

Letter from Maria Camilla R. Pascual of 13 Gen. R. Simon, Caloocan City, urging the Constitutional Commission to pick up the best of what has been written since the 1935 Constitution, to use the past as a reference not something to be cursed or discarded and to use the future as the objective and goal, and then to move on fast towards that goal.

(Communication No. 956 – Constitutional Commission of 1986)

To the Steering Committee.

Letter from Datu Melanio B. Limpuson, submitting Resolution No. 04, series of 1986, adopted in a joint meeting of the 1411 CHDF Battalion Officers and Staff and Subanons tribal and religious leaders, earnestly requesting the division of Zamboanga into three provinces.

(Communication No. 957 – Constitutional Commission of 1986)

To the Committee on the Legislative.

Letter from Mr. Rolando M. Borlaza of Magcaseville Elementary School, Santo Cristo, San Pablo City, submitting, for consideration by the Constitutional Commission, an article, entitled: "The Meaningful Symbol of Our Flag."

(Communication No. 958 – Constitutional Commission of 1986)

To the Committee on General Provisions.

Communication from Ms. Marie Kletke of the Fil-Am Los Angeles Community, 904 N. Avalon Blvd., Wilmington, CA 90744, expressing hope that the draft Constitution will include provisions fostering the development of self-sufficient economic regions with economic and political autonomy.

(Communication No. 959 – Constitutional Commission of 1986)

To the Committee on the National Economy and Patrimony.

Communication from the Catholic Educational Association of the Philippines (CEAP) signed by its president, Mr. Rolando Dizon, expressing its view that the issue of the U.S. bases should not be included in the Constitution but should be left to the government to negotiate so as to protect the highest national interest.

(Communication No. 960 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communications seeking to include in the Constitution a provision obliging the State to protect the life of the unborn from the moment of conception, from:

1) Dr. Editha Lanete and 51 physicians of UP-P.G.H., Manila
2) Mr. Ronald Masangkay and 95 other students from De La Salle University.
3) Ms. Flora Nisce Kagaoan
   Ministry of Health
   Regional Health Office No. 4
   IPHO, Morong District Hospital
   Morong, Rizal
4) Ms. Marie R. Banaag, 42 Bolivia St., Better Living Subdivision, Bicutan, Parañaque, M.M. and 565 other concerned citizens.

(Communication Nos. 961, 962, 963 and 964 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

Communications seeking to include in the Constitution the following:

a) the promotion of Philippine sovereignty over our natural resources,
b) an anti-U.S. or any foreign intervention on Philippine affairs,
c) a no-U.S. military bases agreement, and
d) an anti-nuclear power plant, from:
   1) Glenn M. Bayon
      Infant Jesus Academy
      Silang, Cavite
   2) Christmas Panganiban
      Infant Jesus Academy
      Silang, Cavite
   3) William V. Panganiban
      Infant Jesus Academy
      Silang, Cavite
   4) Oliver B. Castro
      Infant Jesus Academy
      Silang, Cavite

(Communication Nos. 965, 966, 967 and 968 – Constitutional Commission of 1986)

To the Committee on Preamble, National Territory, and Declaration of Principles.

COMMITTEE REPORT

Committee Report No. 40 on Petition No. 3, prepared by the Steering Committee entitled:

AN URGENT PETITION TO REOPEN SECTIONS 5 AND 11 OF THE ARTICLE ON THE LEGISLATIVE POWER,

recommending that the same be given due course by the Commission.

Sponsored by Hon. Bengzon, Jr. and Davide, Jr.

To the Calendar of Unassigned Business.

MR. RAMA. Madam President.

THE PRESIDENT. The Floor Leader is recognized.

CONSIDERATION OF PROPOSED RESOLUTION NO. 537
(Article on the Declaration of Principles)
Continuation

PERIOD OF AMENDMENTS

MR. RAMA. I move that we resume consideration of Proposed Resolution No. 537 on the Article on Declaration of Principles. We are still in the period of amendments.

THE PRESIDENT. Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

The honorable chairman and members of the committee will kindly occupy the front table.

At this juncture, the President relinquished the Chair to the Honorable Cirilo A. Rigos.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Rosario Braid be recognized.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Mr. Presiding Officer, we are now in the section on science, technology and education. The committee has decided to combine Sections 19 and 20 or Sections 18 and 19 now in the revised draft to become one provision. We also request the transposition of the flagship provision in the already approved Article on Education, Science, Technology, Arts and Culture to be the provision for Section 19. Copies of the provision have just been distributed to the body. It reads:

> The State shall give priority to education, science and technology, arts, culture and sports to foster patriotism and nationalism, accelerate social progress and promote total human liberation and development.

THE PRESIDING OFFICER (Rev. Rigos). Are there any comments?

MR. TINGSON. Mr. Presiding Officer, the committee is conscious of the fact that the Article on the Declaration of Principles should not be encumbered with unnecessary details and that we would like the body to help us write down here some strong, pungent and brief statements. And this is the reason why we have decided to combine Sections 18 and 19 in just one sentence.

THE PRESIDING OFFICER (Rev. Rigos). This is now the proposed Section 18, is that right?

MS. ROSARIO BRAID. It will be Section 18.

THE PRESIDING OFFICER (Rev. Rigos). This will be Section 18.

MS. ROSARIO BRAID. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). The proposed Section 18 actually combines Sections 18 and 19.

MR. TINGSON. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Are we ready to vote?

MR. RAMA. Yes, Mr. Presiding Officer, the body is ready to vote.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Padilla is recognized.

MR. PADILLA. Line 4 of the proposed substitute section reads: "promote total human liberation and development." Can we not just simplify that by saying, ". . . promote human development"?

MS. ROSARIO BRAID. Mr. Presiding Officer, this section is the exact wording of the already approved Article on Education and we are just requesting a transposition of this to the Article on the Declaration of Principles. Since this has been approved, Mr. Presiding Officer, we request that this be accepted as it is.

MR. TINGSON. Mr. Presiding Officer, we would like the chairman of the Committee on Human Resources to please make some remarks on this. Our committee is proposing the transposition of the whole Section 1 to this particular part of the Article on the Declaration of Principles.

MR. VILLACORTA. Mr. Presiding Officer, I consulted the members of the Committee on Human Resources and they were agreeable to transpose the omnibus section of the Article on Education to the Article on the Declaration of Principles.

MR. TINGSON. Thank you.

Mr. Presiding Officer, if I remember right, in our deliberations yesterday we decided to just go ahead and write here what we want to write and then the Committees on Style and Sponsorship would take care of that.

We will just go ahead; that is what Commissioner Rosario Braid read a while ago. It says:

> The State shall give priority to education, science and technology, arts, culture and sports to foster patriotism and nationalism, accelerate social progress and promote total human liberation and development.

We are ready to vote on this.

MR. RAMA. Mr. Presiding Officer, I move that we vote on this consolidated formulation.

VOTING

THE PRESIDING OFFICER (Rev. Rigos). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

As many as are in favor of the transposition, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 20 votes in favor and 2 against; the proposed Section 18 is approved.

MR. ROMULO. Mr. Presiding Officer, point of order.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Romulo is recognized.

MR. ROMULO. I would just like to clarify the procedure being used for this transposition. There were two approaches suggested yesterday: one was the Maambong approach and the other one was the Azcuna approach. I cannot remember offhand what we adopted. I just want it recorded that whichever procedure we adopted yesterday should be the one followed now.

Can Commissioner Azcuna please comment?

MR. AZCUNA. Mr. Presiding Officer, what we adopted yesterday was the procedure of merely reiterating the flagship provision in another article without transferring it. However, guidelines were given to the Sponsorship Committee to just delete later on one of the duplications and retain the one that is in the Article on the Declaration of Principles.

MR. ROMULO. So, Mr. Presiding Officer, I move that the same procedure be used with regard to this section.

THE PRESIDING OFFICER (Rev. Rigos). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. TINGSON. Mr. Presiding Officer.

MR. RAMA. May I ask that the chairman of the committee be recognized, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Tingson is recognized.

MR. TINGSON. Regarding Section 21, similarly, our committee telescoped this into a shorter sentence to read: "THE RIGHT OF THE PEOPLE TO COMMUNICATE AND TO HAVE ACCESS TO INFORMATION SHALL ENJOY THE PROTECTION OF THE STATE."

I think this particular section was based mainly on the proposal of Commissioners Rosario Braid and Foz.

May I give the microphone now to Commissioner Rosario Braid.

THE PRESIDING OFFICER (Rev. Rigos). Mr. Chairman, is that a committee amendment on page 5, Section 21?

MR. TINGSON. Mr. Presiding Officer, may I turn the microphone over to Commissioner Rosario Braid. I think we have a further change on that.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Yes, we have incorporated the amendments of Commissioners Davide and others, copies of which were distributed yesterday. It reads: "THE RIGHTS OF THE PEOPLE TO COMMUNICATE AND TO HAVE ACCESS TO INFORMATION THAT WILL ENHANCE PARTICIPATION SHALL ENJOY THE PROTECTION OF THE STATE. THE COMMUNICATION MEDIA HAVE A SOCIAL RESPONSIBILITY TO PROMOTE AND SAFEGUARD THE RIGHTS AND FREEDOMS OF THE PEOPLE."

THE PRESIDING OFFICER (Rev. Rigos). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

I wonder whether this provision is already contained in Section 6 of our Bill of Rights, more particularly the phrase "ACCESS TO INFORMATION." Section 6 of our Bill of Rights, as approved, states:

> The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

Mr. Presiding Officer, my main objection here is the addition of "ACCESS TO INFORMATION" without the qualifying phrase "subject to limitations as provided by law." Does this phrase "ACCESS TO INFORMATION" refer also to intelligence information gathered by the NICA – the National Intelligence Coordinating Agency?

MS. ROSARIO BRAID. There are limitations of access which will be defined by law, and these are defined in the Bill of Rights.

Mr. Presiding Officer, this provision pertains to the need to complement the freedom to communicate with the necessary resources. Resources here means information which will equip people to act intelligently. The rights cannot be exercised unless people have adequate information.

MR. DE CASTRO. So, in short, the Commissioner means that when we speak of "ACCESS TO INFORMATION," we do not include intelligence information gathered by the police, the Armed Forces and the NICA. Am I correct?

MS. ROSARIO BRAID. These are exceptions, Mr. Presiding Officer. These do not refer to the information in this particular provision.

MR. DE CASTRO. How about information from the private sector? Mr. Presiding Officer, if the private sector is making such researches in consonance with their business, will the information be available to everybody so that they can copy the same?

MS. ROSARIO BRAID. There are provisions in terms of intellectual rights that will protect those who have access to technical information. However, there are certain information that should be given to all.

MR. DE CASTRO. What is the need, therefore, of Section 21 insofar as access to information is concerned, when we have it categorically stated in Section 6 for our Bill of Rights?

MS. ROSARIO BRAID. There is information that people need, such as information on fluctuating prices. The entrepreneur would like to have access to information that will help him select which industry he should invest in; the farmer needs adequate information on agricultural inputs; the prospective employer needs information that would enable him to decide whether or not he should be recruited by the employment agency.

MR. DE CASTRO. Mr. Presiding Officer, this is going around the circle a lot. Section 6 of the Bill of Rights is already very definite on access to information. Why do we need this kind of provision in our Article on the Declaration of Principles? Our Bill of Rights will be in a much better position.

THE PRESIDING OFFICER (Rev. Rigos). Does Commissioner de Castro have any amendment?

MR. DE CASTRO. I move to delete this section, Mr. Presiding Officer, for the very reason that the same is well defined in Section 6 of our Bill of Rights. The proponent accepted that "ACCESS TO INFORMA-

TION" does not include the intelligence information of the Armed Forces, the police and the NICA, which is really dangerous for State security without any qualification in this provision as saying subject to conditions provided for by law which is well specified in Section 6 of our Bill of Rights.

MS. ROSARIO BRAID. Yes.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). What does the committee say?

MS. ROSARIO BRAID. These rights, Mr. Presiding Officer, have been rights and demands of the many developing countries particularly in a situation where most of the information resources are concentrated in the center, where it is not spread throughout the country so that there is very little information in the peripheral areas. So we talk of "information rich" areas, such as the urban areas and "information poor" areas which are in the poorer rural areas.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Padilla is recognized.

MR. DE CASTRO. Just one question, Mr. Presiding Officer. What information would be disseminated, for example?

MS. ROSARIO BRAID. Information for the farmer, for the entrepreneur in small-scale industry, information for the future laborer who goes to Saudi Arabia so that he would not be exploited by recruiters. There is very little information that is available to the people.

MR. DE CASTRO. Then let us specify it because when we talk of "access to information," it means the whole gamut of information involving secret matters. That is why Section 6 so specifically stated that it should be subjected to the provision of law.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Padilla is recognized.

MR. PADILLA. Thank you, Mr. Presiding Officer. If this information, according to Commissioner de Castro, would include confidential information on NICA, for example, and other matters affecting national security, there really should be no open information. I would like to invite attention also that under the Penal Code there are provisions on discovery and revelation of secrets; Art. 290. Discovering secrets through seizure or correspondence; Art. 291. Revealing secrets with abuse of office; and Art. 292. Revelation of industrial secrets. So, obviously there should be access to information which is already covered by the Bill of Rights which should refer to matters of public concern not private information that probably may have been the result of research covered by patents or copyrights, et cetera.

Thank you.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Tan is recognized.

SR. TAN. Mr. Presiding Officer, I would agree with Commissioner de Castro that perhaps this should be deleted because it is already in the Bill of Rights. But there is one dimension which is not in the Bill of Rights and that is the last sentence. It states: "The communication media have a social responsibility to PROMOTE AND SAFEGUARD the rights and freedoms of the people." Especially after the revolution, many of us have been disillusioned by the communication media because most of the time their information is inaccurate and sensational. So I thought this was rather important, if it has a place in the Constitution and for me it is not only a social responsibility but a moral responsibility.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

The communication media are again well defined and particularly stated. In fact they were so complete that we have nothing more to add in the General Provisions. Does the proponent now want to lift again, transport, transpose or whatever we have that one in the General Provisions to be placed in the Declaration of Principles insofar as media are concerned?

MS. ROSARIO BRAID. Mr. Presiding Officer, this particular provision is not mentioned at all in the General Provisions. That is why we did not mention it there because we wanted it in the Declaration of Principles. So, when we talk of social responsibility as a concept, such is found only in the General Provisions Article.

MR. DE CASTRO. I have the amended provision on the General Provisions. I am a member of the committee. I do not know whether my mind is escaping me now, but I very well remember that we even spoke of communication media even on the equity participation. I think it is about two or three sections. I may get it when I have the paper. I hope that I am not correct in my statement about the media.

THE PRESIDING OFFICER (Rev. Rigos). Is Commissioner Monsod seeking to be recognized? Please proceed.

MR. MONSOD. Yes, Mr. Presiding Officer. I just want to read the proposed section in the General Provisions. It says:

> The State recognizes the vital role of communication and information in the economic, cultural, societal and political development of the nation and in promoting peace and international understanding.

I think that encompasses the sense of what is now being discussed, and I would agree with Commissioner de Castro and Commissioner Tan that we should delete this provision because it is already covered in the General Provisions and in the Bill of Rights. As a matter of fact, even on the National Economy, there is a provision on information on loans, which states: ". . . shall be made available to the public." So, there are quite a number of provisions that already deliver the same message, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). So, there is a motion to delete Section 21, page 5 of the committee draft. Are we ready to vote?

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Quesada is recognized.

MS. QUESADA. May I ask Commissioners Monsod, de Castro and Tan if they are amenable that instead of transposing that provision found in the General Provisions, we now replace what they are intending to delete?

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. May I just read the revised provision in the General Provisions which supersedes the one read by Commissioner Monsod. It reads:

> The State recognizes the vital role of communication and information in national development. It shall promote a comprehensive communication policy . . .

There is no mention about social responsibility and promoting and safeguarding the rights and freedoms of the people, which we thought would be a general declaration on communication.

MR. DE CASTRO. Then include "SOCIAL RESPONSIBILITY."

MR. BENGZON. Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bengzon is recognized.

MR. DE CASTRO. Mr. Presiding Officer.

MR. BENGZON. Point of order, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bengzon is recognized.

MR. BENGZON. Commissioner Rosario Braid read a report, a revised report, which has not been distributed. We have here in our possession, which was read by Commissioner Monsod, Proposed Resolution No. 531 which deals on Committee Report No. 31, and this is already a substitute resolution. So, whatever Commissioner Rosario Braid is reading is not official in the sense that it has not been properly filed. We have not received the copy.

MS. ROSARIO BRAID. No, it is already the official report. May we request the Secretariat to furnish copies.

MR. BENGZON. This is very important, Mr. Presiding Officer, because General Provisions is next on deck. After the Declaration of Principles and Family Rights, it is the General Provisions Article that will be considered by this body. And what everyone has is Proposed Resolution No. 531 which is a substitute resolution already.

THE PRESIDING OFFICER (Rev. Rigos). Does the committee need to confer?

MS. NIEVA. Mr. Presiding Officer, there must be some error, because I have substitute Resolution No.531 which contains the provision that Commissioner Rosario Braid has read. I have Section 9 as she read it.

MS. ROSARIO BRAID. It is as of September 1, 1986. We amended it because there were still proposals that came in through the mails which the committee considered because they were very important.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Rev. Rigos). The session is suspended for two minutes.

It was 10:39 a.m.

RESUMPTION OF SESSION

At 10:43 a.m., the session was resumed.

THE PRESIDING OFFICER (Rev. Rigos). The session is resumed.

MR. TINGSON. Mr. Presiding Officer, the committee is asking Commissioner Monsod to articulate the new formulation with the approval of the committee.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. If, Mr. Presiding Officer, I believe the contention, the issue is that there is a thought in that sentence which is the social responsibility of media that is not in the Bill of Rights, not in the General Provisions, nor in the Article on the National Economy. If the committee wants to retain that thought, which is not in the Bill of Rights, I am going to suggest that we look into this kind of formulation: "The State HAS THE DUTY AND MEDIA THE SOCIAL RESPONSIBILITY TO RESPECT THE RIGHT OF THE PEOPLE TO ACCURATE AND TRUTHFUL INFORMATION."

THE PRESIDING OFFICER (Rev. Rigos). There is a motion to delete. How does Commissioner de Castro react to that? Is that, in effect, an amendment?

MR. DE CASTRO. Mr. Presiding Officer, I request that we put to a vote my motion to delete Section 21, as proposed, because it is already contained in the Bill of Rights, Section 6, and in the General Provisions which is being proposed.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. I am willing that the body vote first on the motion for deletion and then the body may want to consider this proposal.

VOTING

THE PRESIDING OFFICER (Rev. Rigos). As many as are in favor of the motion to delete, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

The results show 17 votes in favor, 10 against and no abstention; the motion to delete is approved.

Commissioner Monsod is recognized.

MR. MONSOD. I would like to propose this provision: "The State HAS THE DUTY AND MEDIA THE SOCIAL RESPONSIBILITY TO RESPECT THE RIGHT OF THE PEOPLE TO ACCURATE AND TRUTHFUL INFORMATION."

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bernas is recognized.

FR. BERNAS. Just one question. We are imposing a duty on the State to respect the right of the people. How can this be implemented in concrete?

MR. MONSOD. One concrete thing that comes to my mind is that the government should never again indulge in the kind of propaganda and management of the news that happened during the Marcos regime.

MS. ROSARIO BRAID. Mr. Presiding Officer.

FR. BERNAS. Would we not, in effect, be trenching on freedom of expression? I think everyone has a right to make a fool of himself.

MR. MONSOD. I think if the right is there, we are just stating the corresponding duty of the government.

FR. BERNAS. We are putting the duty on the State to respect the right of the people to accurate information. It would seem to me that this can be implemented only by some form of curtailment of the freedom of speech or the press.

MR. MONSOD. I beg the Gentleman's pardon? I am sorry.

FR. BERNAS. This can be implemented only by some form of curtailment of speech and press. In effect, we would be weakening the guarantee of freedom of the press.

MR. MONSOD. Actually, Mr. Presiding Officer, it does not need an act of the government. What it can mean is that the government will refrain from managed news and manipulation of media.

FR. BERNAS. But the government also has the right to project its own ideas. One side, we would call it management; another side. we would call it debate.

MR. MONSOD. Yes. But I think there is a difference, Mr. Presiding Officer, because we were spectators to manipulation of statistics, to manipulation of news and this would just affirm that the government may, of course, disseminate accurate and truthful information, that what it cannot do and should not do is manipulate the news.

FR. BERNAS. But in my view of freedom of expression, whatever manipulation of information there is should be answered not by curtailment of this exercise but rather by exposure of the manipulation.

MR. MONSOD. I agree with the Gentleman. I do not think there is any difference. I am just saying that this provision talks about two things: that the government should not deliberately go out and change the news and should, therefore, respect the right of the citizens to accurate and truthful information and the idea of the social responsibility of media.

FR. BERNAS. And supposing government does?

MR. MONSOD. Does what?

FR. BERNAS. Does what was described as manipulation. What possible remedy would there be against the government?

MR. MONSOD. We might as well ask the same question on the Bill of Rights. Suppose the government does not observe the rights of the people in the Bill of Rights?

FR. BERNAS. If there is a violation of the Bill of Rights by the government, then whatever the government does is invalid. In this particular case, it is not a question of validity or invalidity but a question of muzzling government.

MR. MONSOD. I do not think it is muzzling government.

FR. BERNAS. My only concern is that any attempt to implement this would have the tendency of muzzling. And I think it could affect freedom of the press.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. The concept of social responsibility implies that the government should take steps also in furthering and improving the welfare of media people and other communicators who have often been left out actually. They are left out to fend for themselves. I think that if we have to exercise social responsibility, the State should provide encouragement of professional development and incentives in terms of development programs, such as a local program fund that would improve the capability and the credibility of communicators.

THE PRESIDING OFFICER (Rev. Rigos). Does the committee accept the proposal of Commissioner Monsod?

MS. QUESADA. Mr. Presiding Officer.

MS. ROSARIO BRAID. No. The committee will accept it if Commissioner Monsod is open to one amendment. And here we are referring not only to accurate and correct information but also to adequate information. We can give accurate and correct information to a limited few, but how about the millions of people who are left out because there is lack of information? So, we would also like to include the word "ADEQUATE."

MR. ROMULO. Mr. Presiding Officer.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. I just want to state that I think the word "ADEQUATE" is subsumed in "ACCURATE" and "TRUTHFUL" because a half truth is not truth. But I think there is a more important issue which was raised by Commissioner Bernas which is: Does this section open the door to press censorship? I think that is really a more important issue. My idea is that it does not open the door, but I think that there is a legitimate concern of some Commissioners that we might open the door to press censorship. So that is the issue.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Quesada is recognized.

MS. QUESADA. In that case, Mr. Presiding Officer, would it be all right if we remove the words "THE STATE HAS THE DUTY" and instead start with "COMMUNICATION MEDIA HAS THE SOCIAL RESPONSIBILITY TO RESPECT THE RIGHT OF THE PEOPLE TO TRUTHFUL AND ACCURATE INFORMATION"?

MR. ROMULO. Mr. Presiding Officer, may I comment on that?

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Romulo is recognized.

MR. ROMULO. Yes. I share the misgivings of Commissioner Bernas on the reformulation. As soon as we impose some kind of a duty or obligation on the press to follow a certain line, no matter how noble and desirable that line may be, we are opening the doors for the State to come in and impose some kind of – I will not even call it censorship – pressure on media to follow that line. That is the danger.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bengzon is recognized.

MR. BENGZON. I was going to make a statement, Mr. Presiding Officer, because in the reformulation suggested by Commissioner Quesada, she took away that portion imposing that duty on the State and just retained the provision which gives the right to the people to truthful information. Is that correct?

MS. QUESADA. Yes.

MR. BENGZON. There is even no need for that, Mr. Presiding Officer, because necessarily the citizens are entitled, as a matter of right, to truthful information. And it goes without saying that media have the obligation and the social responsibility to give truthful information not only to the urban centers but even to the people in the barrios. So, we do not need to put anything of that sort in the Constitution any longer. It becomes a surplusage.

THE PRESIDING OFFICER (Rev. Rigos). Does Commissioner Bengzon want to propose amendments?

MR. BENGZON. I would like to request Commissioner Monsod to withdraw his amendment.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Before we do that, could we have a little discussion on this because it seems as if, when we talk of media, the thing that comes to the mind of everybody is urban media – urban newspapers, urban television. But we are talking here about communication media which could enable the people in rural areas to develop their own capability, their own self-dignity and self-reliance so that they can participate in nation-building. The reason they are left out is that they do not have information – whether correct or inaccurate – and this is what we are trying to provide here. We are trying to show that social responsibility encompasses not only the responsibility to provide accurate and correct information to our own colleagues and people living in urban centers where there is a proliferation of media but also to open the opportunity to people in the rural areas. Mr. Presiding Officer, in Digos, Davao, until only a year ago, they did not have any radio station. The Muslim communities, even if they have been granted autonomy, are deprived of adequate information. If they do have, most of these programs are produced for the Christian sectors. In other words, social responsibility means not merely adequate or accurate information but also includes meeting the need of diverse cultural communities of our society by providing them enough information for them to develop self-reliance.

MR. MONSOD. Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. I just wanted to say that the premise of my proposal is that this is not adequately covered in the Bill of Rights. Now, the first sentence of Section 6 in the Bill of Rights states: "The right of the people to information on matters of public concern shall be recognized." If this body and the committee confirm that within this sentence is included the social responsibility as well of media to recognize that right to information of the people, then I am willing to withdraw my proposal.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rama is recognized.

MR. RAMA. Mr. Presiding Officer, we must be reminded that there are many constitutionalists, including myself – although I do not consider myself an expert on constitutional law – that consider this freedom of the press as the centerpiece of our Bill of Rights. And the reason is that without information, without freedom of the press, there cannot exist a democracy; and the basis for progress, et cetera, is this freedom of expression of the press. To consider this as an important right, there must not be any qualification or any modification which would create an aberration on this right, because if one contends that this freedom must be the freedom to tell the truth or to serve a social function or whatever, then we, to a certain effect, abridge this freedom because there are many interpretations of what is the truth and, sometimes, of what is the national interest. As in the case of President Marcos, he believed that the freedom of the press must be circumscribed by the interest of the State; therefore, he proposed the notion of developmental journalism, which created a kind of monster journalism during the time of martial law.

Now, as to the concern that this freedom of the press might be abused, there is such a thing as a counterbalance because if we have freedom of the press, everybody is free to print in newspapers and to say what he wants to say, then the other papers will correct the untruth stated or abuses made by another paper. In other words, the interplay of the freedom of the press would have its own kind of control and self-discipline. But what is dangerous is to write into the Constitution some kind of objectives, regulations or conditions of this freedom of the press. That is why in the Constitution of the United States the wordings are very simple: "No law abridging the freedom of the press shall be passed."

THE PRESIDING OFFICER (Rev. Rigos). Do we understand that Commissioner Monsod has withdrawn his proposal?

MR. MONSOD. Provided that the social responsibility of the media is deemed included in the first sentence of Section 6 under the Bill of Rights. That would include the idea that there is a social responsibility involved, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Has it been withdrawn? What is the situation now?

MR. MONSOD. I wanted to ask the committee whether their interpretation is that they consider the first sentence of Section 6 of the Bill of Rights to include the idea of social responsibility.

MS. ROSARIO BRAID. It does not, Mr. Presiding Officer, because it does not include the people's right to communicate. In other words, nothing in the Bill of Rights gives the mandate to provide the adequate resources, the adequate facilities that would enable equal access to communicate. It is just that freedom in the abstract is really freedom for only a few.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bernas is recognized.

FR. BERNAS. Mr. Presiding Officer, in our tradition of liberty of the press and of expression in this country, we have recognized only two kinds of unprotected speech. These are libel and obscenity. These are the only two exceptions; these are the only two forms of expression which we consider unprotected. Everything else, even untruth, is protected by the press. And the reason for this is precisely to allow a clash of ideas in order that the truth will appear. So, if there is any statement of untruth, the remedy is not prohibition; the remedy is exposure. If there is error, the remedy is not prohibition; the remedy is debate, unlimited debate; and this amendment, I think, dangerously trenches on freedom of debate. It is not for us to say to the press, "You must exercise social responsibility," because who is to say to them what social responsibility is? This is the very essence of democracy – that people really express themselves on matters that are debatable, and it is not for the Constitution to say what this kind of liberty is or to limit it.

THE PRESIDING OFFICER (Rev. Rigos). There is a pending motion of Commissioner Bengzon to delete the Monsod proposal. Is that correct?

MR. MONSOD. It has not been approved, so there is nothing to delete.

MR. BENGZON. Mr. Presiding Officer, my motion is conditioned on Commissioner Monsod's insisting on his amendment, but if he withdraws his amendment, there is nothing to delete.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Quesada is recognized.

MS. QUESADA. We just want to put on record that the first sentence of the original proposal of Commissioner Rosario Braid would probably have bearing with the nonformal kind of communication when people have to have access to knowledge and information that would enhance their social and political participation. So, just for the record, in case this is deleted, we would like to put that sense into the record that we are interested in people having access to information that would enable them to become participants in nation-building, and that there are nonformal forms of communication education, one of which is media.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Sarmiento is recognized.

MR. SARMIENTO. Mr. Presiding Officer, this comment is addressed to Commissioner Rosario Braid. Is her concern about the people's right to communication in the rural areas not covered by two sections we approved yesterday; one section referring to "comprehensive rural development," and the other section referring to "the obligation of the State to promote a just and dynamic social order"?

MS. ROSARIO BRAID. Mr. Presiding Officer, it will be in the same way that rural development also includes health, education, science and technology and all the other development of delivery of social services. We wanted to accentuate here the importance of communication. We are living in an information and communication age. In my sponsorship speech in the General Provisions, I call communication the nerve of government. Unless we have adequate information flowing horizontally, vertically, bottom up, top down, we will never have a nation. At the same time, the information that should flow in should be the information that is accurate, adequate, that which mobilizes the community, helps integrate, and not the information that divides. This is why we are very concerned with the concept of social responsibility. This is a statement that not only mandates the State or the communicators but everybody to help build a socially responsible environment which would be ever vigilant about the role of the media. This would mean strengthening education, research, and other support areas of communication so that we are able to develop a more professional core of communicators and, above all, an alert, vigilant citizenry that is aware of the role of and respect for communication in society.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. Mr. Presiding Officer, I must admit that when I made this proposal, it had a very limited and modest objective. And now, I am a little afraid if the interpretation of the committee of my simple amendment includes all of those things that Commissioner Rosario Braid has mentioned because that sounds like a shotgun to me on just a short sentence. I wanted very much to limit it to a very specific point on just a question that there is social responsibility with respect to education, nonformal and so on, that is already in the education section. So, if the purpose of this section is the purpose that Commissioner Rosario

Braid mentioned, I would like to withdraw it because that is not the idea that I had in mind.

THE PRESIDING OFFICER (Rev. Rigos). The proposal is withdrawn, Mr. Floor Leader.

MR. RAMA. Mr. Presiding Officer, may I ask that we proceed to Section 22.

THE PRESIDING OFFICER (Rev. Rigos). Section 22, on page 5.

MS. ROSARIO BRAID. No, Mr. Presiding Officer, we request a vote.

MR. RAMA. It can no longer apply because the proposal has been withdrawn, so there is nothing to vote on for the whole section has been deleted.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Let us hear from Commissioner Davide.

MR. DAVIDE. I would like to find out if Commissioner Rosario Braid has her own proposal as a substitute for this section.

MS. ROSARIO BRAID. I was going to maintain the last phrase which is: "THE COMMUNICATION MEDIA HAVE SOCIAL RESPONSIBILITY TO PROMOTE AND SAFEGUARD THE RIGHTS AND FREEDOMS OF THE PEOPLE." Rights here are economic rights and political rights.

MR. DAVIDE. Mr. Presiding Officer, I think it is still proper to take that up even if Commissioner Monsod had withdrawn, although there was an earlier action of the Commission to delete. A motion to delete or an amendment to delete will not preclude another amendment to insert. That is very clear according to Section 50 of the Rules.

THE PRESIDING OFFICER (Rev. Rigos). We shall ask the committee now to read its proposed formulation of Section 21, page 5.

MS. ROSARIO BRAID. Mr. Presiding Officer, it reads: "THE COMMUNICATION MEDIA HAVE A SOCIAL RESPONSIBILITY TO PROMOTE AND SAFEGUARD THE RIGHTS AND FREEDOMS OF THE PEOPLE." And may I add, Mr. Presiding Officer, that the rights and freedoms here include economic, social, cultural, political rights and freedoms.

THE PRESIDING OFFICER (Rev. Rigos). Would the Commissioner just please read the sentence she would like to appear in Section 21?

MS. ROSARIO BRAID. "THE COMMUNICATION MEDIA HAVE A SOCIAL RESPONSIBILITY TO PROMOTE AND SAFEGUARD THE RIGHTS AND FREEDOMS OF THE PEOPLE."

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner de Castro is recognized.

MR. DE CASTRO. This is exactly what has been deleted on my motion, exactly the same words without an "a" added or without a comma (,) added. This was already deleted by the Commission, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bernas is recognized.

MR. DE CASTRO. I hope they can still formulate something, "ay maglubid ng buhangin para mapalagay pa uli ito."

FR. BERNAS. I would like to say the same thing, Mr. Presiding Officer, that this is precisely the idea that has been deleted. And I would add that it is a very dangerous idea as far as freedom of the press is concerned. How do we operationalize that? How do we tell media how they should exercise their social responsibility except by telling them what to do? And we are really going head on against freedom of the press when we do that.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rama is recognized.

MR. RAMA. Mr. Presiding Officer, in view of the statement and the reminder that these are exactly the same words that were deleted by a vote, may I ask the Presiding Officer to make a formal ruling on the proposition that there is no more need to vote on this because this particular sentence had been deleted in the motion of Commissioner de Castro.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. It was deleted on the proviso that we act on Commissioner Monsod's proposal, but the committee will be willing to amend this provision in order that we have a declaration.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Rev. Rigos). The session is suspended for a few minutes.

It was 11:11 a.m.

RESUMPTION OF SESSION

At 11:23 a.m., the session was resumed.

THE PRESIDING OFFICER (Rev. Rigos). The session is resumed.

MR. RAMA. May I ask that Commissioner Rosario Braid be recognized, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Mr. Presiding Officer, we have an amended provision with the help of many Commissioners. And it reads: "ALL CITIZENS SHALL HAVE THE RIGHT TO SEEK, RECEIVE AND IMPART INFORMATION FOR EFFECTIVE PARTICIPATION IN NATION-BUILDING."

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Davide is recognized.

MR. DAVIDE. Mr. Presiding Officer, since this is the Declaration of Principles that we are talking about, may I propose an amendment? The amendment would be in the beginning; insert before "all" the following: "THE STATE SHALL ENHANCE THE RIGHT OF ALL CITIZENS TO SEEK, IMPART. . ."

THE PRESIDING OFFICER (Rev. Rigos). What does the committee say? How will it read now?

MS. ROSARIO BRAID. "THE STATE SHALL ENHANCE THE RIGHT OF ALL CITIZENS TO SEEK, RECEIVE AND IMPART INFORMATION FOR EFFECTIVE PARTICIPATION IN NATION-BUILDING."

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Bernas be recognized.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bernas is recognized.

FR. BERNAS. May I ask again how this general principle will be operationalized or can be operationalized except by some form of dictation by the State.

This again trenches on freedom of the press. This will come back in the provision on the General Provisions.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. NOLLEDO. We leave it to Congress.

MS. ROSARIO BRAID. Yes. The Congress shall, of course, come up with the mandate that will strengthen the people's rights to seek, receive and impart information. Those rights would come in the form of widening of information resources, access to information resources particularly in rural communities, strengthen professional development programs for all kinds of media communicators and encourage small media. We are not only talking about the mass media here. We are also talking about small non-mass media, audio-visual media and other information resources in the communities. And these are information resources that people can use to enable them to have greater participation in nation-building. The State here would perhaps encourage incentives like tariffs in newsprint that will favor community newspapers, provide exemptions for equipment for struggling radio stations in Samar or Leyte and many other areas and provide scholarships for rural journalists and community media workers. These are the kinds of areas where the State can come in.

MR. NOLLEDO. Mr. Presiding Officer, may I add?

FR. BERNAS. There is just a plethora of ideas there whose meaning I do not know. It either says nothing or it says everything, and as a law it is unwise.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Nolledo is recognized.

MR. NOLLEDO. May I add, in behalf of the committee, that Congress may perhaps require all government offices to give periodic bulletins to the people as much as possible so that the people will know what is going on in the government and give comments on governmental activities, if they have, because, Mr. Presiding Officer, the reason the government is not closer to the people is because of a communication gap.

I think Commissioner Rosario Braid is correct that this can be implemented by Congress.

Thank you, Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Padilla is recognized.

MR. PADILLA. In addition to the correct observations of Commissioner Bernas, I believe that this new proposal is covered by the constitutional rights of free speech and free press and this is the right of expression without previous restraint or fear of subsequent punishment. And in one decision, *In re Abostado* and *In re Quirino*, our Supreme Court said, and I quote:

> The constitutional guarantee of freedom of speech and press must be protected in its fullest extent, but license or abuse of liberty of the press and of the citizen should not be confused with liberty in the true sense.

And there have been many decisions affirming and guaranteeing and protecting this constitutional right of free speech and of the press, which is already provided in our Bill of Rights. Of course, this right is not absolute, like every other constitutional right. It may be limited by certain provisions of the Penal Code that penalizes, as was mentioned, libel as against private individual.

But there must be full protection to this right of free speech and free press. If I be allowed, I shall quote from Justice Holmes in the case of *U.S. v. Schwimmer*, 279 US 644:

> Freedom of speech and of the press which embraces, at the very least, the liberty to discuss publicly and truthfully all matters of public concern without previous restraint and without fear of subsequent punishment, deserves protection not only for the thought that agrees with us but even more so for the thought that we hate.

And so there is really no necessity for this provision which may even impair the correct exercise of the right of free speech and of the press.

Thank you.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Mr. Presiding Officer.

In addition to the objection raised by Commissioner Bernas, I also expressed reservation during the recess regarding the use of the word "information" which I consider to be too broad. I suggested that perhaps this word should be qualified because this would include, as mentioned during the interpellation, matters that are classified data. It could include questions as to the source of information of mediamen.

But I understand that the committee has tried to formulate or improve the condition by saying "TO ENHANCE PARTICIPATION." I think that still is too broad and does not specify the information that perhaps should be included. I think there is a danger in giving the possibility of a broad interpretation or construction to the word "INFORMATION" in this particular proposed provision.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Foz is recognized.

MR. GUINGONA. And may I add, Mr. Presiding Officer, that with regard to the matter of the issuance of government bulletins, I do not think there is a need of a constitutional provision for this, even if these bulletins do not partake of the nature of government propaganda.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Foz is recognized.

MR. FOZ. As formulated originally by the committee, it really sounds like a provision that should belong to the Bill of Rights. But as amended by Commissioner Davide, it becomes a sort of a principle that should be adopted as part of the Declaration of Principles.

I am surprised that there should be any kind of opposition at all to such a provision. At the very core of this provision is the right of the people to be informed. And we know very well that a citizen who is so well informed can better perform his duties and obligations. And there is no idea whatsoever, not even a hint in this provision of what is feared by the other Commissioners, prior censorship of media. As a matter of fact, there is even no mention of media here. Of course, media are very much involved in this provision.

It is, of course, so ideal and so beautiful to speak of the marketplace of ideas insofar as communication media are concerned. But then we know very well that in the exercise of the freedom of the press, media almost all the time falter. They fail; there are so many failings in the exercise of this freedom because, precisely, we have followed the American practice, the American concept of freedom of the press. This freedom, we believe, belongs only to the publishers, to the editors and the reporters. Whatever they do with it, we say: "they are only subject to the laws of libel and obscenity," and they forget that they have a social responsibility, to which term so many of us object.

I find it a source of wonder why we should object at all to the need to stress the social responsibility of every sector, even the media and communication industry.

Thank you.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Bengzon is recognized.

MR. BENGZON. I share the statements and the concerns of Commissioner Bernas, and in addition to that, I just would like to state, Mr. Presiding Officer, before we vote, that if this proposed section, recommended by the committee, is voted down, it will not mean that this Commission will not protect the right of the people to be informed. It will not mean that this Commission does not wish the people – the common man in the barrio – to be informed of every piece of information that he should know. It will not mean that Congress cannot pass laws to insure this right, nor every agency of the government prevented from issuing its bulletin to give information to its employees, because all of these concepts are precisely enshrined in the first sentence of Section 6 of the Bill of Rights.

I just want that clear on the record.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

Just one question: When we say: "all citizens have the right to seek and receive information," does this include intelligence information?

MR. AZCUNA. No.

MR. DE CASTRO. Does this include police intelligence? Does this include the secret plans of the AFP on defense and security?

MS. ROSARIO BRAID. Mr. Presiding Officer, we will say that the Congress shall come up with specific laws that will define what this information is. This refers to information that will enable effective participation of the public.

MR. DE CASTRO. There is nothing in her proposition which states that it will be Congress which will determine. That is why I ask: Does this include intelligence information?

MS. ROSARIO BRAID. No.

MR. DE CASTRO. Police intelligence.

MS. ROSARIO BRAID. No, we said there are exceptions, and they are defined in the Bill of Rights.

MR. DE CASTRO. So the Commissioner admits now that this is included in the Bill of Rights.

MS. ROSARIO BRAID. No, I am referring to the exceptions in terms of the kind of information.

MR. DE CASTRO. Please answer "yes" or "no" because I am asking a definite question.

MS. ROSARIO BRAID. I said no.

MR. DE CASTRO. Thank you.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Davide is recognized.

MR. DAVIDE. Before I can vote intelligently on the question, may I be allowed some clarificatory questions.

The first question is: Does this proposal, as a declaration of principle, not infringe upon, impede, obstruct or impair press freedom in any manner?

MR. AZCUNA. No, it does not.

MR. DAVIDE. But this speaks of the right of the citizen, is that not correct?

MR. AZCUNA. Yes.

MS. ROSARIO BRAID. That is right, Mr. Presiding Officer.

MR. DAVIDE. Secondly, this particular declaration of principle is not included, as a matter of fact, in Section 6 of the Bill of Rights, because Section 6 refers to the right of information and relates only to official documents, researches, acts or decisions. It does not relate to information in general to the public, is that correct also?

MS. ROSARIO BRAID. That is right, Mr. Presiding Officer. It is broader because it goes beyond what is known as a public concern.

MR. DAVIDE. Yes. As a matter of fact, without this particular declaration of principle, the meaning, the import and the significance of Section 6 may even be minimized. In other words, can it not be expanded to include to a certain extent the very right sought to be enhanced in this Declaration of Principles?

MS. ROSARIO BRAID. Yes, Mr. Presiding Officer.

MR. DAVIDE. And, finally, would she agree with me that in the matter of the implementation of this, the government can easily do that by merely, for instance, requiring more telephone connections to the barangays, and cheaper newsprints in order that more newspapers can compete in the market?

MS. ROSARIO BRAID. Yes, Mr. Presiding Officer. These are essential social services that have been ignored.

MR. DAVIDE. And, perhaps, giving tax exemptions to media people?

MS. ROSARIO BRAID. That is right, Mr. Presiding Officer.

MR. DAVIDE. So, thank you very much for the information; I am in favor of this.

MR. RAMA. Mr. Presiding Officer, the issue has been belabored. I think it is the consensus of the members that they would like to vote.

MR. GUINGONA. This is just for clarification, Mr. Presiding Officer. During the interpellation, mention was made that the proposed provision does not contain any reference to the participation of Congress through the enactment of laws. But it seems to me that there was an implied answer that Congress could intervene through the provision of law. I have expressed my reservation regarding the participation of the government, either the executive or legislative or even the courts, in this matter of dissemination of information, because there is the danger that it might infringe on the freedom of the press and of speech that we have enshrined in our Bill of Rights.

MS. ROSARIO BRAID. Mr. Presiding Officer, may I just respond? Where the government comes in will be through tax exemptions or lower tariffs – particularly for newsprint, in the providing of rural telephones, in the providing of scholarships for those who work with information dissemination in the rural areas. This is the area where the government could come in and not to interfere or to censor.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Ople is recognized.

MR. OPLE. Yes, Mr. Presiding Officer.

In spite of the impatience of the Floor Leader, which is very well founded, I would like to invoke my own right to know about the intentions of the proponents. It seems that this proposed section consists of two parts: one is the right of the people to know what their government is doing or intending to do. And I think that is a very valid concern.

The second part, however, in the phrase of Commissioner Foz, calls upon the press to exercise social responsibility, for it to submit to standards of accountability, like all the other sectors. Is that correct?

MS. ROSARIO BRAID. Mr. Presiding Officer, yes. This is the intent; it has been watered down in the amendment.

MR. OPLE. It is the latter part which causes some concern for me and, apparently, other Commissioners because when social responsibility by the press and by media is stipulated here, they are, of course, not exempt from accountability.

But I think the question of Commissioner Bernas is very important. In exercising the social responsibility of the press, should Congress have a hand in establishing the standards of social responsibility and accountability?

For example, press freedom is generally defined in British jurisdiction. I said, "British jurisdiction," because this includes not only the United Kingdom, but also former colonies of Great Britain, such as Malaysia and Singapore. Press freedom is defined as the freedom from licensing by the government. However, in Malaysia and Singapore, we know that the press is licensed. One cannot publish without a government permit.

And in our country, fortunately, anybody can publish without registering even with the government, except as a business in which capacity, a newspaper company ought to register only with the SEC or with, let us say, the Bureau of Domestic Trade. But the minute it is required to register with a government institution, like the Office of Media Affairs – and this happened during martial law so that even textile companies with printing facilities for fabric were required by the Media Advisory Council at that time headed by Primitivo Mijares to register with the Office of Media Affairs – I would like to know whether in saying that Congress will take care of this and that, it will be authorized under this section to prescribe registration without which they may not be able to impose the social responsibility of the press and media.

MS. ROSARIO BRAID. Mr. Presiding Officer, although we struck out the words "social responsibility," the fact that we ask the State to enhance the rights of the citizens to receive information also places the onus of responsibility upon it to come up with some guidelines that will promote a more socially responsible media.

MR. OPLE. There will be legal guidelines for the press and media, Mr. Presiding Officer.

MS. ROSARIO BRAID. No, more of positive sanctions, if we may call it, not in terms of censorship but encouraging the improvement of professional development for all types of communicators through training and incentives. We hope that they would be like lawyers or doctors and other professionals.

MR. OPLE. So that journalists would be held accountable professionally by the Professional Regulation Commission, Mr. Presiding Officer? So that Commissioner Foz would have to prove to a regulatory body like the Professional Regulation Commission that he is capable and qualified to practice his profession as a journalist?

MS. ROSARIO BRAID. We hope that Congress, in the long run, will move to that professionalization of media communicators.

MR. OPLE. I am sorry to disagree, Mr. Presiding Officer. I think this will be a restraint on the freedom of the press and especially the freedom of newspapermen to do their duty. However, I am wholeheartedly in support of the first part of this section which establishes the people's right to know, but that should probably be the object of another effort.

Thank you.

MR. RAMA. Mr. Presiding Officer, I move that we vote on the proposed amendment of Commissioner Davide.

THE PRESIDING OFFICER (Rev. Rigos). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

Let us ask the committee to read the amendment again.

MS. ROSARIO BRAID. We have deleted the second part, so it now reads: "The State shall ENHANCE THE RIGHT OF ALL CITIZENS TO SEEK, RECEIVE AND IMPART INFORMATION FOR EFFECTIVE PARTICIPATION IN NATION-BUILDING."

VOTING

THE PRESIDING OFFICER (Rev. Rigos). As many as are in favor of the amendment, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 15 Members in favor, 17 against and one abstention; the amendment is lost.

MR. TINGSON. Mr. Presiding Officer.

MR. FOZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Foz is recognized.

MR. FOZ. I wonder if at this precise state, I can still explain why I voted for the provision.

THE PRESIDING OFFICER (Rev. Rigos). What is the question again?

MR. FOZ. May I say something, Mr. Presiding Officer, in connection with the proposal we have just voted on?

THE PRESIDING OFFICER (Rev. Rigos). The Commissioner may proceed.

MR. FOZ. I would like to oppose the view or the proposal that journalists should submit themselves to a regulatory board for examination and monitoring to determine their professional qualification in the exercise of their profession.

With that clarification, just the same, I voted for the provision.

THE PRESIDING OFFICER (Rev. Rigos). It is so noted.

The Floor Leader is recognized.

MR. RAMA. May I ask that Commissioner Tingson be recognized.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Tingson is recognized.

MR. TINGSON. With the deletion of Section 13 and Section 20, we are now on Section 19 on page 5. That would now be about the provisions on Local Government and we would like to ask that Commissioner Nolledo be recognized.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

As reformulated by the committee, Section 19, originally Section 22, will now read as follows:

> The State shall guarantee and promote the autonomy of local government units to ensure their fullest development as self-reliant communities.

Mr. Presiding Officer, this is a substantial reproduction of Section 10, Article II of the 1973 Constitution, and it will be noted from this provision that this is merely an introductory or curtain provision to local government provisions found in the new Constitution. There are two basic guidelines indicated in the provision; namely, promotion of local autonomy and, consequently, promotion of self-reliance in community development.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Alonto is recognized.

MR. ALONTO. Mr. Presiding Officer, will the Gentleman of the committee yield to some questions?

MR. NOLLEDO. Willingly.

MR. ALONTO. In the text of the committee report that I have in my hand, Section 22, which is now Section 19, states:

> The State shall guarantee and promote the autonomy of local government units and autonomous regions to ensure their fullest development as self-reliant communities.

I noticed in the statement of the distinguished chairman of the Committee on Local Governments, who is a champion of the provision regarding autonomous regions, that he has omitted the particular phrase "and autonomous regions." May I know from the Gentleman what the reason was for the committee's decision to delete that particular phrase?

MR. NOLLEDO. The Commissioner is right. We deleted the term "and autonomous regions" for symmetrical purposes, because when we talk of "autonomous regions," the term itself indicates "autonomy." So we talk of the composition of the autonomous regions as being given autonomy. I refer to the local government units composing the autonomous regions. There will be no symmetry if we still state "and autonomous regions" because the result will be some sort of redundancy. When we talk of "autonomous regions," which the Constitution authorizes to be established, we already talk of autonomy. And so, when we make this declaration, we talk of the autonomy of all local government units, whether composing an autonomous region or not.

MR. ALONTO. Am I made to understand that "autonomous regions," which we have created in this Constitution is just one form of local government units?

MR. NOLLEDO. No, I do not mean that. An autonomous region consists of different local government units. And the moment the autonomous region is established, the need for autonomy is deemed realized.

MR. ALONTO. Thank you for the Commissioner's explanation, but then this particular section, which talks about a concept of principles that is upheld by this Constitution and eliminates the mention of the autonomous regions, would mean that the State does not have any concern at all for guaranteeing and promoting the autonomous regions in order to ensure their fullest development as self-reliant communities. Does the Commissioner not realize that?

MR. NOLLEDO. But we cannot deny that the autonomous regions consist of local government units. And when we talk of local government units, we also talk of those which compose the autonomous regions.

MR. ALONTO. Yes, that is precisely why I asked the Commissioner whether under his definition of local government units the autonomous region is one form of a local government unit, and he said no. That is why I returned the question to the Commissioner.

MR. NOLLEDO. If the Commissioner wants, he can move for the reinstatement of the term "AND AUTONOMOUS REGIONS." I will have no objection to that, if the Commissioner feels it is really necessary to put it there.

MR. ALONTO. Yes, in order to avoid any doubt that this section refers to any local government units including the autonomous regions, I think it is proper to return it.

MR. NOLLEDO. The committee accepts the Commissioner's amendment.

MR. ALONTO. Thank you.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Tingson is recognized.

MR. TINGSON. That was not an amendment, but just an answer to Commissioner Alonto's question.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Davide is recognized.

MR. DAVIDE. Mr. Presiding Officer, I would not necessarily object to the restoration of the words "AND AUTONOMOUS REGIONS" because as mandated in the Article on Local Governments and Autonomous Regions, an autonomous region is already considered a local government unit.

So, may I propose the following as a reformulation? Section 19 shall read as follows: "The State shall guarantee the autonomy of local government units."

We deleted the words "and promote" and the phrase "to ensure their fullest development as self-reliant communities" because these are already embodied in the Article on Local Governments. So, a simple declaration of principle on this shall read: "The State shall guarantee the autonomy of local government units."

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Let us first hear the committee's response.

MR. NOLLEDO. We have no objection to that, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). The proposed amendment has been accepted by the committee.

Commissioner Monsod is recognized.

MR. MONSOD. Section 2, which I believe is a Padilla amendment, of the Article on Local Governments states: "The territorial and political subdivisions shall enjoy local autonomy." Is that not the same idea?

MR. NOLLEDO. Yes. The idea, however, is not exactly reflected in the Declaration of Principles now found in Section 19 of the committee report because here the State guarantees that autonomy; in fact, promises to promote that autonomy. This is only a curtain provision. I think local government units, which compose the Republic, play a vital role in national development. We cannot delete this provision without doing violence to that principle.

MR. MONSOD. I would like to first ask the committee because I would like to move for the deletion of this section since it is already amply covered.

MR. DAVIDE. Mr. Presiding Officer, may I comment on that since I made the proposal?

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Davide is recognized.

MR. DAVIDE. I reworded Section 19 precisely so that there will be no need to change the wording of Section 2 of the Article on Local Governments. I deliberately omitted the word "promote." We only guarantee as a matter of principle. We have the specific provision in the Article on Local Governments to carry out the intent of the Declaration of Principles guaranteeing local autonomy to governmental units. So may I request Commissioner Monsod that instead of transposing, we preserve this. Anyway, the wordings in Section 2 of the Article on Local Governments are different and carry only in detail the intent of the guarantee provided for in the Declaration of Principles.

SUSPENSION OF SESSION

MR. MONSOD. Mr. Presiding Officer, can we just have a few minutes' suspension?

THE PRESIDING OFFICER (Rev. Rigos). The session is suspended for a few minutes.

It was 12:00 p.m.

RESUMPTION OF SESSION

At 12:03 p.m., the session was resumed.

THE PRESIDING OFFICER (Rev. Rigos). The session is resumed.

The chairman of the committee is recognized.

MR. TINGSON. Commissioner Nolledo will please be recognized.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

We have agreed on another reformulation of Section 19 and it now reads as follows: "The State shall ENSURE the autonomy of local GOVERNMENTS."

I would like to emphasize, Mr. Presiding Officer, that the term "local governments" should include the autonomous regions.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. I just want to clarify that statement that the autonomous regions are deemed included in the definition of "local government" wherever under this Constitution those are set up. I just want to make sure that we are not going again into federalism.

MR. NOLLEDO. I agree with the Commissioner.

THE PRESIDING OFFICER (Rev. Rigos). It is so recorded.

Commissioner Padilla is recognized.

MR. PADILLA. I heard the word "ensure" instead of "guarantee." Is that i-n-s-u-r-e or e-n-s-u-r-e?

MR. NOLLEDO. It is e-n-s-u-r-e.

MR. TINGSON. We are ready to vote, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Rev. Rigos). As many as are in favor, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(No Member raised his hand.)*

The results show 23 votes in favor; none against and no abstention; Section 19 is approved.

The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, we are now ready to proceed to Section 23 which is now Section 20.

MR. TINGSON. It pertains, Mr. Presiding Officer, to prohibition of political dynasties. We would like to call on Commissioner Nolledo again.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Nolledo is recognized.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

It seems to me that the resolution asking for a provision in the Constitution to prohibit political dynasties is very popular outside but does not seem to enjoy the same popularity inside the Constitutional Commission.

And so, Mr. Presiding Officer, I would like to summarize the reasons behind this prohibition realizing what is happening in different parts of our country. This provision will widen political opportunities contrary to the opinion of Commissioner Monsod because I feel that when we talk of equal political opportunities, we have also to talk more or less of equal conditions under which candidates run for public office. And with this provision, Mr. Presiding Officer, we do away with political monopoly.

As now appearing in many parts of our country, Mr. Presiding Officer, we seem to approve of the practice that public office is inherited. Now, in order to make this provision more palatable to the Members of the Constitutional Commission, I have decided to restrict the meaning of political dynasty as a suggestion to the forthcoming Congress of the Philippines. I believe, Mr. Presiding Officer, that this prohibition, although using the term "prohibit," is not actually prohibitory but only regulatory. I am talking of this in terms of the scope of the term "political dynasty" by saying that a prohibition against political dynasty, Mr. Presiding Officer, is designed to avoid circumvention of the provision limiting reelection of public officers to give a chance to others in running for public office. I would like to be specific, Mr. Presiding Officer. In the case of local government officials like governors, for example, we allow them to have two reelections. If he is reelected twice, he can no longer run for reelection in which case, he will ask his close relative – a son or a daughter or a brother or a sister – to run for public office under his patronage. And in this case, we circumvent the rule against further reelection because it may also happen that his younger son may run for governor and he is still strong enough to exercise moral as well as effective influence upon the son. And the son becomes a subaltern, subjecting himself to the will of the father who has apparently retired.

And so, in the case of a President, for example, under the provisions of the Constitution, the President cannot run for reelection. So if the incumbent President cannot run for reelection, she can ask, for example, Noynoy Aquino – assuming that he is already of age – to run for President, thereby negating the laudable purpose for prohibiting reelection. That seems to me to be the meaning of political dynasty although Congress may still widen the meaning of the term. In the case of a governor, Mr. Presiding Officer, if he has run for two reelections and he decides that a close relative run for election for the same position, the governor, who is now incumbent, must have built fortunes and even private armies to assure the perpetuation through the election of close relatives. His built-in advantages over his opponents will not widen political participation in an election, Mr. Presiding Officer. So I submit to the Commission.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. This sounds like a replay of the debate we had in the Article on Local Governments when we talked about the same concept. This body voted down a similar proposal on prohibition of political dynasties in the Article on Local Governments. And here we are giving exactly the same reasons; we are indulging in the same kind of debate on the same issue. Mr. Presiding Officer, as we said before, the assumption here seems to be that we are underestimating our people in their right to choose; we are trying to put a prescreening mechanism so that public office is not after all accessible to all because we are going to prohibit or exclude certain people from running for public office. And my point is, we should have a little more faith. Now that we have a new COMELEC, the process will be cleaned up, but we should give our people full choice. Let them run and let the people decide. That is the essence of suffrage.

MR. NOLLEDO. May I ask, Mr. Presiding Officer, just one question of Commissioner Monsod?

THE PRESIDING OFFICER (Rev. Rigos). The Commissioner may proceed.

MR. NOLLEDO. Suppose, as I stated in my example, the incumbent governor has run for two reelections already, and he wants his son to run to perpetuate the family in office, is that not denying equal conditions to all candidates for the same public office?

MR. MONSOD. No, that is not. What he should do is allow everybody who wants to run and trust the people to make the right choice.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Ople is recognized.

MR. OPLE. Yes, Mr. Presiding Officer, thank you.

May I ask a question of Commissioner Nolledo?

MR. NOLLEDO. With pleasure.

MR. OPLE. Thank you.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Is the Commissioner not yet through?

MR. MONSOD. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. I just want to make the motion to delete Section 20, first, because it has been argued and debated fully in the Article on Local Governments and this body has already made a decision on the same point; and, secondly, for the reasons I have stated, that I do not think we should curtail the right of the people to a free choice on who their political leader should be.

MR. NOLLEDO. Mr. Presiding Officer, may I just comment?

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Nolledo is recognized.

MR. NOLLEDO. I would like to comment on the assertion of Commissioner Monsod that this was already adequately discussed. The issue, at that time, was whether to authorize the Congress to include in the Local Government Code a provision against political dynasty, and the issue here now is whether to put that as a declaratory principle. *(. . . deleted by order of the Chair.)*

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Ople is recognized.

MR. OPLE. Thank you very much, Mr. Presiding Officer.

May I ask Commissioner Nolledo to tell this body, if he cares, whether political dynasties are a cause or an effect, considering a lopsided socioeconomic system especially in the countryside where the advantage of birth favors those more likely to fall in the category of dynasties as he calls them? The reason groups of families rotate power only among themselves is that they are the only ones with the means for sustaining political campaigns. Is that not correct?

MR. NOLLEDO. Yes, the Commissioner is correct.

MR. OPLE. In that sense, therefore, so-called dynasties are the effects rather than the causes of an imperfect social and economic system, especially in the countryside.

MR. NOLLEDO. That is a factor to be considered.

In connection with that, if the Commissioner will permit me, because of the economic situation we are in, the moment the others who are young but perhaps more competent than the candidate of the governor, of the incumbent, are discouraged from running considering that they know of the built-in advantages of the incumbent but they have no means to finance their political campaign, you let the incumbent and his family perpetuate themselves in office.

MR. OPLE. If they are the effects rather than the causes of prevailing and traditional social structures that maldistribute opportunities, should this Commission not attack the causes rather than the effects? And it is for that reason, I suppose, that we have drafted an Article on Social Justice with a very comprehensive land reform policy which we hope, if properly implemented in the future, will recast the society itself in the countryside, so that opportunities for running for elections will be better distributed.

MR. NOLLEDO. To my mind, recasting that society in the manner the Commissioner expects will take a long time, perhaps, 50 to 100 years; in the meantime we vote for elitist candidates and the poor ones who are more competent, highly intelligent and without the financial means are deprived of participation in the democratic process.

MR. OPLE. Is it not also correct, Mr. Presiding Officer, that notwithstanding these constraints of a lopsided social and political system, there are, in fact, many people disadvantaged from birth by the accident of being born to the poorest families? Is it not a tribute to our political system and its upward mobility that there are many people able to wrest public offices in clean and free elections from so-called dynasties?

MR. NOLLEDO. In this case, would the Commissioner agree with me?

MR. OPLE. In my own province there are no longer any dynasties. There are other provinces where you find the word "dynasty" probably misapplied to a distinguished family, let us say, to the Cojuangco and Aquino family in Tarlac or the Padilla family in Manila and Pangasinan, or the Rodrigo family in Bulacan, or the Laurel family in Batangas, and the Sumulong-Cojuangco family in Rizal, the Calderon family in Nueva Vizcaya, and Peps Bengzon has been calling my attention to the existence now of a Bengzon line of political office holders in Pangasinan. This is not to say, Mr. Presiding Officer, that the Philippine society has been immobile. We see lots of evidences that, in fact, people disadvantaged by the accident of birth have indeed risen through their own efforts to become successful competitors of entrenched political dynasties in their provinces and cities. I can sympathize with Commissioner Nolledo's concern about dynasties because he comes from a province which tends to be governed by political dynasties. Is that not right, Mr. Presiding Officer?

MR. NOLLEDO. I do not think so. The Commissioner must be talking of Minister Mitra, and I think all the sons of Minister Mitra are not interested in politics. I think that is the misfortune of Minister Mitra.

MR. OPLE. Minister Mitra comes from a distinguished political family, although the provenance might be different in the case of his ancestors.

MR. NOLLEDO. But the venue is different. The father comes from Batangas and was Congressman of Mountain Province. In my case, I do not intend to build a political dynasty in Palawan, even if opportunity beckons.

MR. OPLE. So, does the Commissioner agree that this Constitution has already established numerous provisions that will militate against the perpetuation of dynasties because these provisions especially on social justice broaden economic and social opportunities and, therefore, access to public offices, and that this Constitution directly attacks the causes of the problem identified by Commissioner Nolledo instead of addressing them as effects?

MR. NOLLEDO. The Commissioner will notice that while we prohibit reelection, the person who is no longer qualified to be reelected will let his son continue and perpetuate the family in public office. That is what the proposal wants to remedy.

MR. OPLE. One more question, Mr. Presiding Officer, before I exhaust my three minutes.

THE PRESIDING OFFICER (Rev. Rigos). The Commissioner still has one minute.

MR. OPLE. Thank you.

One final question: Does my friend, Commissioner Nolledo, not believe that the right of suffrage should not be abridged and that the right to vote and to be voted upon actually was derived from the same concept of the right of suffrage? Will he agree to that principle?

MR. NOLLEDO. We do not infringe upon the right of suffrage. We only regulate the right of some people to run because we want to equalize the conditions between the poor and the rich candidates. And I would like the Commissioner to know that we do not prohibit the son of the governor from running for the same office because he can run later on when the governor-father is no longer in office.

MR. OPLE. I thank the Commissioner for recognizing the principle that the right to be voted upon inheres in the right to vote. Thank you very much.

MR. NOLLEDO. I agree with the Commissioner, but I think the State under its police power can regulate the same.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Jamir is recognized.

MR. JAMIR. I am disturbed, Mr. Presiding Officer, by the statement of Commissioner Nolledo that during the debate on the Article on Local Governments that was referred to by Commissioner Monsod *(. . . deleted by order of the Chair).*

MR. NOLLEDO. *(. . . deleted by order of the Chair.)*

MR. JAMIR. But I think, Mr. Presiding Officer, that it is dangerous to be talking of *(. . . deleted by order of the Chair).*

MR. NOLLEDO. *(. . . deleted by order of the Chair.)*

MR. JAMIR. But did the Commissioner *(. . . deleted by order of the Chair).*

MR. NOLLEDO. *(. . . deleted by order of the Chair.)*

MR. DAVIDE. Question of privilege, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). What is the question of privilege of Commissioner Davide?

QUESTION OF PRIVILEGE OF COMMISSIONER DAVIDE

MR. DAVIDE. The privilege motion is to strike off all statements regarding a quorum for the reason that they would have no basis since nobody raised a quorum at the time that it was said. And I would state for the record that at the time that the so-called absence of a quorum took place, no less than the chairman of the Committee on Local Governments presided and he would be estopped from questioning the matter of a quorum even right now. So, in order to cleanse the record of any allusion regarding the integrity of the Commission, I move for the striking off of all statements regarding this issue on quorum.

MR. NOLLEDO. I have no objection to that motion, Mr. Presiding Officer.

MR. BENGZON. I second the motion, Mr. Presiding Officer.

MR. NOLLEDO. I have no objection to that, but I am not questioning the presence of the quorum to invalidate the proceeding. I am mentioning it to reenforce my argument that I think more Commissioners should be given a chance to listen to my arguments in favor of this resolution.

THE PRESIDING OFFICER (Rev. Rigos). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner de Castro is recognized.

MR. DE CASTRO. Still on the matter of quorum, Mr. Presiding Officer. I think to make it formal, Honorable Nolledo should make a motion to delete all that he said about quorum so that we can finally decide it; otherwise, the mere acceptance of the suggestion of Honorable Davide is not sufficient. There must be a formal motion by the Commissioner who raised the quorum in the first instance.

Thank you.

MR. DAVIDE. It was a formal motion, Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). That was a formal motion and there was no objection; it was approved.

Commissioner Guingona is recognized.

MR. GUINGONA. Thank you, Mr. Presiding Officer.

I find the reason advanced by Commissioner Nolledo regarding the need to equalize conditions and elections valid. He is referring to an incumbent who can make use of the facilities and the powers that he has while in office in order to facilitate the election of a close relative.

Commissioner Nolledo, however, mentioned that this particular provision seems to be popular outside but might not be so popular in the Commission. Perhaps one of the reasons, Mr. Presiding Officer, is that there is the use of the absolute word "prohibit." During the interpellations, Commissioner Nolledo admitted that what he has in mind here is not prohibition really but regulation. So maybe the word "prohibit" could be changed to the word "REGULATE." And since "political dynasties" is not the concept – political dynasties are not explained in this provision – then perhaps we might add "AS PROVIDED BY LAW" in order to make this provision more acceptable to the Members of the Commission.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. I believe that there is a pending motion to delete.

THE PRESIDING OFFICER (Rev. Rigos). There is a pending motion to delete.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Sarmiento is recognized.

MR. SARMIENTO. Before we vote on the motion to delete, may I just be allowed to say a few words.

THE PRESIDING OFFICER (Rev. Rigos). The Commissioner will please proceed.

MR. SARMIENTO. This seems to be a very unpopular section. But may I speak in favor of this section in spite of its unpopularity within this august body?

Political dynasties, Mr. Presiding Officer, are the bane and waterloo of young, promising but poor candidates. And this is true in the provinces, even in my own province.

By including this provision, we widen the opportunities of competent, young and promising but poor candidates to occupy important positions in the government. While it is true we have government officials who have ascended to power despite accident of birth, they are exceptions to the general rule. The economic standing of these officials would show that they come from powerful clans with vast economic fortunes.

So, I believe that with this provision and considering that social and economic inequalities will be with us for many years, maybe for decades, then there is wisdom for the inclusion of this section in our Constitution.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Quesada is recognized.

MS. QUESADA. Yes, I would just like to contribute something to support the position of the committee to retain this provision, which is about to be deleted. And one of the positions that we maintain is, this is a facilitating provision that would enable us to translate the principle that we had adopted concerning the participation of the sectoral representatives so that they will have a chance after three years of having reserved seats to compete in the political party. If there are going to be political dynasties, then we preclude, we limit the opportunities, the chances of the sectoral representatives who have the position or the means by which they could compete with political dynasties. I suppose that we all believe that everybody should compete, but given the social inequalities, I do not think that we will ever achieve that intention.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Yes, may I just ask one or two questions, Mr. Presiding Officer, of the proponent?

MR. NOLLEDO. Willingly.

MS. ROSARIO BRAID. Will this lead towards the development of a pluralistic society?

MR. NOLLEDO. Yes.

MS. ROSARIO BRAID. Does this provision encourage the development of a new political culture?

MR. NOLLEDO. Yes, because it really widens political opportunities.

MS. ROSARIO BRAID. Thank you.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Monsod is recognized.

MR. MONSOD. Mr. Presiding Officer, I had assumed that the committee members had already talked with each other. But, anyway, I just want to say that here we are in this assembly, extolling people power and saying that the people have a new consciousness and yet not trusting that they will make the right choice. We want to put a section on political dynasty on the assumption that there will be violations of the Electoral Code, that people in power will use their office to elect their children. We cannot assume that certain sections of this Constitution will be violated and then try to cover and compensate for them in another section.

We have in this Constitution qualifications of those who seek elective office. We are adding in this section a disqualification to those who may aspire after public office, and, in effect, amending the various provisions in this Constitution which enumerate the qualifications and disqualifications of the law.

So, I move for the deletion of this section.

THE PRESIDING OFFICER (Rev. Rigos). I think we have debated this long enough.

MR. COLAYCO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Colayco is recognized.

MR. COLAYCO. I have one angle which has not been mentioned and which makes the concept advanced by Commissioner Nolledo very meritorious. One of the worst effects of political dynasties is that it breeds graft and corruption. I will give one actual example. In a city in Metropolitan Manila, the mayor has been in power for easily 20 years, even before Marcos came to power. He has several children. What was the result? One took care of the graft coming from the discos. Another one received a monthly pension from the so-called motels. Another took charge of the gambling casinos. A fourth one took care of the market collections. But the chief of police looked the other way because he has been given a share in the loot. Because of the length of time the mayor has held power, he did not bother with the public criticism against his administration. This is something still happening. A group of concerned citizens in this same city created a special committee to help the present OIC. In the beginning they thought that the OIC was acting in good faith, but lately, they heard that he was following the footsteps of his predecessor.

This condition exists not only in this city. We go a little farther to the Visayas. You know whom I am referring to. This politician has such a strong private army that not even our army dares to do something about it. And what is this political dynasty doing? The same thing that the previous dynasty I mentioned is doing. His wife and children are all in power. Some are mayors, others are governors, et cetera. And in each place where they are in power, graft and corruption is present.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Rev. Rigos). We hope Commissioner Rodrigo will be the last speaker before we vote.

MR. RODRIGO. Yes. Before I vote intelligently on this matter, I would like to ask a very important question. What is the definition of a dynasty? What degree of consanguinity or affinity is meant by dynasty? Does it refer only to father and son? Does it refer to brother and brother? Or an uncle with his nephew? Up to what degree?

MR. NOLLEDO. We are not deciding that question here but we are recommending to Congress that the scope of relationship shall be within the third degree of consanguinity or affinity. We leave it to Congress to determine this relationship.

MR. RODRIGO. That means up to a nephew? Is it by consanguinity or also by affinity?

MR. NOLLEDO. We are recommending consanguinity and affinity but it is up to Congress to determine.

MR. RODRIGO. Is it the fault of a nephew if he happens to have an uncle who is a public officer? Why penalize the nephew? He cannot choose his uncle.

MR. NOLLEDO. To meet the Commissioner's objection, Congress may limit up to the second degree. We are not deciding that relationship because Congress will conduct public hearings on this before a regulatory law may be passed by it.

MR. RODRIGO. I do not see in the provision that it is left to Congress to decide.

MR. NOLLEDO. That is why Commissioner Guingona recommended, if this provision should not be deleted, "AS MAY BE PROVIDED BY LAW." The committee is receptive of that suggestion.

MR. RODRIGO. But in the Commissioner's thinking, may in-laws be included in the prohibition?

MR. NOLLEDO. Yes. The Commissioner knows how family ties exist in the Philippines. Even fourth cousins are very close to each other.

MR. RODRIGO. Yes. But then those are exceptions. As a matter of fact, the general rule is that in-laws do not get along well together.

MR. NOLLEDO. Perhaps in domestic affairs.

MR. RODRIGO. But the thing is a person cannot choose the husband of his sister. Why should he be penalized for something not his fault?

MR. NOLLEDO. As stated, it is Congress that will determine the relationship.

MR. RODRIGO. Yes. But I would like to visualize how Congress will act. What if Congress decides it will be up to the third degree of consanguinity, meaning, uncle and nephew?

MR. NOLLEDO. Considering the close family ties that exist in our country, not as an exceptional situation but as a general rule, I would not blame Congress in providing for that effect.

MR. RODRIGO. Is it not unfair for a nephew to be penalized, to be disqualified merely because he has an uncle not of his choice?

MR. NOLLEDO. The Commissioner will notice that I consider this not prohibitory but regulatory. We have to cut the nexus after the permissible reelection. And when there are no more built-in advantages like warlordism, graft and corruption, etc., then that nephew can run again.

MR. RODRIGO. The argument was that the incumbent has money and, therefore, he can help his nephew or brother or son be elected. But there are many cases when, let us say, a municipal mayor, even a provincial governor, is not a rich man.

MR. NOLLEDO. And after holding office for two terms or more, he becomes very rich, and builds his own private army. Mr. Presiding Officer, political dynasty is really a social malady. And I disagree with Commissioner Monsod who says that the people are against the provision. In fact, in practically all forums wherein I appeared, the people overwhelmingly support the rule against political dynasty.

THE PRESIDING OFFICER (Rev. Rigos). Commissioner Natividad is recognized.

MR. NATIVIDAD. With the Commissioners' indulgence, the reason I voted against this provision before is its vagueness. Are we speaking only of the position of the incumbent? Suppose there is a public official and his relative is running for a different position, are his relatives banned?

MR. NOLLEDO. That is the reason I said I am limiting it only to a situation where the rule against further reelection might be circumvented. That is my suggestion to Congress although the Congress can also widen the meaning of political dynasty.

MR. NATIVIDAD. Yes. That is why I was afraid of injustice not to the incumbent but to the people. This country is varied in experience. If one runs and it is clearly in furtherance of a dynasty, I believe he will be defeated. That is my experience in my own district. The easiest time that I ran and won handily was – we were running under the opposition – when I was fighting against a dynasty. It was an easy election. Let the people decide. The biggest issue that we can raise against a political opponent is that he is running as a part of a dynasty. Let the people decide; give this satisfaction to the people. I am just voicing my own experience.

MR. NOLLEDO. The Commissioner's experience is an exceptional case.

MR. NATIVIDAD. When one is an incumbent, it does not mean he is going to be politically strong; that is not true. When one remains as a political incumbent, he has more issues against him; he has more promises broken and he tends to be a little weaker. It is not true that if one is an incumbent, he cannot be defeated. One is more vulnerable as he gets to be elected several times. And then if one puts up his son, for example, to run after him – as in Bulacan – that is a formula for defeat. We have our own experiences in our own provinces; we cannot generalize this matter. I have my own experience. There is Senator "Soc" Rodrigo's. When I was in the opposition, I ran against someone who wanted his wife to be a Congresswoman, an incumbent governor, and it was the easiest victory in my five terms.

So, let the people decide. For us to ban or to declare this as unconstitutional is a different matter.

MR. NOLLEDO. Mr. Presiding Officer, in view of this transcendental question, may I ask for nominal voting.

MS. QUESADA. Mr. Presiding Officer.

NOMINAL VOTING

THE PRESIDING OFFICER (Rev. Rigos). I think we are now ready to vote on the motion of Commissioner Monsod to delete Section 20 on page 5.

MS. QUESADA. Before voting, Mr. Presiding Officer, may I just inquire whether Congress would be preempted or precluded from banning political dynasties should this provision be deleted?

FIRST ROLL CALL

THE PRESIDING OFFICER (Rev. Rigos). Not necessarily, I suppose, but first let us dispose of this motion to delete by nominal voting; the Secretary-General will call the roll.

THE SECRETARY-GENERAL, *reading:*

Abubakar	
Alonto	
Aquino	
Azcuna	No
Bacani	
Bengzon	Yes
Bennagen	
Bernas	
Rosario Braid	No
Calderon	Yes
Castro de	Yes
Colayco	No
Concepcion	Yes
Davide	

MR. DAVIDE. I abstain.

THE SECRETARY-GENERAL, *reading:*

Foz	
Garcia	No
Gascon	No
Guingona	No
Jamir	Yes
Laurel	
Lerum	Yes
Maambong	Yes
Monsod	Yes
Natividad	Yes
Nieva	No
Nolledo	No
Ople	Yes
Padilla	Yes
Quesada	No
Rama	
Regalado	
Reyes de los	Yes
Rigos	Yes
Rodrigo	Yes
Romulo	
Rosales	
Sarmiento	No
Suarez	No
Sumulong	
Tadeo	No

Tan . . . . No
Tingson . . . . No
Treñas . . . . Yes
Uka . . . .
Villacorta . . . .
Villegas . . . .

SECOND ROLL CALL

THE PRESIDING OFFICER (Rev. Rigos). The Secretary-General will conduct a second call for those who have not registered their votes.

THE SECRETARY-GENERAL, *reading:*

Abubakar . . . .
Aquino . . . .
Bacani . . . .
Bennagen . . . .
Bernas . . . .
Foz . . . .
Laurel . . . .
Rama . . . .
Regalado . . . .
Uka . . . .
Villacorta . . . .
Villegas . . . .

MR. SARMIENTO. Commissioner Foz is here already.

MR. FOZ. My vote is no.

MR. MONSOD. Mr. Presiding Officer, are we entitled to seek out our colleagues in the building?

MS. QUESADA. Mr. Presiding Officer, that has been done before, when Commissioner Regalado was awakened from his rest.

MR. MONSOD. He did not vote; he was not allowed to vote.

MS. QUESADA. Yes, but he was brought here.

MR. DE CASTRO. Commissioner Regalado was not allowed to vote and the Members resisted his right to vote.

MS. QUESADA. Yes, but then he was called.

MR. NOLLEDO. That is a technicality. I think that should not hamper the proceedings.

MS. QUESADA. He was called.

MR. DE CASTRO. Mag-usap lamang tayo ng totoo rito; huwag tayong magsasabi ng hindi katotohanan. Bago tayo magsalita, isipin muna natin kung katotohanan o hindi. That is truth in our Preamble.

MR. NOLLEDO. The truth is that they voted actually. It is only the place that seems to be questionable. I think that seems to be a highly technical objection.

THE PRESIDING OFFICER (Rev. Rigos). The results show 17 votes in favor, 18 against and one abstention; the proposed amendment by deletion is lost.

MR. MONSOD. I would like to reserve the right to ask for a revote, because I think the way this was conducted was not proper.

MR. SARMIENTO. May I object, Mr. Presiding Officer, to the motion for revote. I think the voting was in order.

MR. MONSOD. Under the Rules, only two roll calls are allowed but what happened was that we had three, even four calls.

MR. SARMIENTO. When Commissioner Foz and the others voted, Mr. Presiding Officer, they were inside the session hall; they were not outside.

MR. MONSOD. Mr. Presiding Officer, there were three Members who were allowed to vote after the second call.

MR. DE CASTRO. That is right, Mr. Presiding Officer. The vote was made by three Members after the second call.

THE PRESIDING OFFICER (Rev. Rigos). Is there any motion to reconsider the voting?

MR. MONSOD. Mr. Presiding Officer, I move that we reconsider the voting and that we go into recess for lunch.

MR. SARMIENTO. May I reserve my opposition to that motion for a revote.

THE PRESIDING OFFICER (Rev. Rigos). Is there any objection? *(Silence)* The Chair hears none; the motion is approved.

MR. GASCON. Commissioner Monsod cannot make that motion for reconsideration because he was not with the majority.

MR. MONSOD. My ground for asking for a revote is that there has been a violation of the Rules – that the three Members were allowed to cast their votes after the second call.

MR. GASCON. My point is, it should not be a motion for reconsideration but a motion for another voting.

MR. DE CASTRO. That is the same.

MR. MONSOD. That is right.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Rev. Rigos). The session is suspended until 2:30 p.m.

It was 12:48 p.m.

RESUMPTION OF SESSION

At 2:59 p.m., the session was resumed with the Honorable Efrain B. Treñas presiding.

THE PRESIDING OFFICER (Mr. Treñas). The session is resumed.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Sarmiento is recognized.

MR. SARMIENTO. Thank you, Mr. Presiding Officer. I rise in connection with the motion for reconsideration of the voting made by Commissioner Monsod before we suspended our session this noon. Before the suspension, Mr. Presiding Officer, I objected to the motion and to reenforce my objection, I registered my reservation to vote or to object against the motion. Unfortunately, the Presiding Officer, the honorable Commissioner Rigos, before the suspension, declared or ruled that the motion passed without any objection from the Members of the Commission.

To me, that was inaccurate since I objected and to reenforce my objection, registered my reservation to object against the motion.

My humble position, Mr. Presiding Officer, is that the motion for recounting is not proper. This is clear from the provisions of the *Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States Ninetieth Congress* and the Rules of the Batasang Pambansa which can be invoked to govern in a supplemental manner insofar as they are not incompatible with the provisions of these rules.

Our Rules, Mr. Presiding Officer, is silent on this point, although inferentially we can deduce that the voting on that section was proper.

But what does the *Jefferson's Manual* state? I would like to share this with the body. Rule 15, pages 391-392 states that:

> xxx and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the roll call is completed, each Member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest, and given an opportunity to vote and his vote shall be recorded x xx

Now, there is a commentary or annotation after this rule, and the commentary states that:

> Under this rule the roll is called over twice, and those appearing after their names are called may vote.

In other words, since the three Commissioners voted after the second call but before the announcement of the voting, their voting was in order. It was not irregular. This is also reenforced by the Rules of the Batasang Pambansa which states:

> Section 102. *Second Call on nominal voting.* – After the Members have voted *yeas* and *nays*, the Secretary-General shall call in alphabetical order the names of those who did not vote so that they may vote. After the second call, no Member shall be allowed to vote.

In other words, before the announcement of the results of the voting, any Member can vote after the second call. So, my humble submission, Mr. Presiding Officer, is that the motion for a revote made by the honorable Commissioner Monsod was not proper on the basis of the rules I cited.

I humbly submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Are there any other Commissioners who desire to talk on the matter?

MR. MONSOD. Mr. Presiding Officer, the only reason I asked for a revote was that it did not appear to be a regular vote. We had a Commissioner rushing into the hall and voting "yes" then somebody whispering to him, "You should vote no," thus making him change his vote to "no."

What I am saying is that it was not clear what the intent of this body was, and even when the two Commissioners appeared on the edge of the rostrum, it was another Commissioner who was stating what their votes were.

As a matter of fact, if one takes a look at the record, the votes of the two Commissioners who entered through the side door were not even heard from the recorder.

MS. AQUINO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Aquino is recognized.

MS. AQUINO. When the Presiding Officer called for a vote, I was at the dining room but I was well aware of the proceedings that were on the floor. I was conscious of the nuances of Commissioner Monsod's motion to delete; I was aware of the intervention of Commissioners Ople, Colayco, Sarmiento and Natividad.

I could not have registered a more intelligent vote under the circumstances than when I was seated here agonizing with my hunger pangs attacking me. Must we be faulted? In my case, must you begrudge me for my hunger pangs pricking the rest of me?

MR. MONSOD. May I just reply, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Monsod is recognized.

MR. MONSOD. I am not saying that the Commissioner was not aware of what was going on. What I am saying is, the circumstances under which the voting was done were such that there could be a cloud of doubt on what the vote was because there was a Commissioner who said "yes" and changed it to "no." The two who voted were not heard even from the recorder.

Thirdly, their names were called again. In other words, there was a third call before they voted. There is no such thing as a third call.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, based on the statement of Commissioner Monsod that the taking of the vote was a little bit unclear, I think what we should apply would be the rule in the *Jefferson's Manual* which calls for a recapitulation of the votes when they seem to be unclear.

Mr. Presiding Officer, in case the votes are unclear, these are the precedents and comments on Section 1, Rule 15 of the *Jefferson's Manual and Rules of the House of Representatives:*

> Either before announcement of the result or after such announcement, the Speaker may order the vote recapitulated. A member may not change his vote on recapitulation if the result has been announced, but errors in the record of such votes may be corrected. A motion that a vote be recapitulated is not privileged.

So, this rule speaks of errors or probable errors in the record.

I presume that this rule on recapitulation should be applied here.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Villacorta is recognized.

MR. VILLACORTA. Mr. Presiding Officer, just two points in reply to Commissioner Monsod.

First of all, there have been many instances where people rush from the lounge or from the entrance coming precisely to catch the voting. We usually and inevitably have to go out for personal reasons, and there is absolutely nothing wrong for any Member of this Commission to try to rush back to make it to the voting.

Secondly, with respect to my question to Commissioner Suarez as to what the issue was, when I was rushing back from the lounge, it was very clear in my mind before I had left the session hall that I was in favor of this provision proposed by the committee to ban political dynasties.

As a matter of fact, I had interpellated Commissioner Nolledo about this for clarification. There was no doubt in my mind. How we vote will depend on how the motion for voting is worded.

So, in other words, I had to clear this with Commissioner Suarez in the nick of time. I do not know why a fellow Commissioner would impute ill motives. Why is there this partisanship whenever it concerns us? It seems we are always guilty of negative motives or of ignorance.

THE PRESIDING OFFICER (Mr. Treñas). Is the Commissioner through?

MR. VILLACORTA. I think it is very unparliamentary, if I may say so, Mr. Presiding Officer.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Monsod is recognized.

MR. MONSOD. I was not referring to Commissioner Villacorta when I made that statement about a Commissioner saying "yes" and voting "no." He was not the person I was referring to.

THE PRESIDING OFFICER (Mr. Treñas). Are there any more comments?

MR. VILLACORTA. The clarification is accepted, Mr. Presiding Officer.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. I abstained during that particular voting, but I think the motion for a revote is in order. Under our Rules, especially Section 39 on nominal voting, the Secretary-General shall call alphabetically the names of Members who shall answer "yes" or "no" upon being called, after which the President shall forthwith announce the result. It simply means that the particular Commissioner is right here in the session hall and that is the reason upon being called, meaning, that since he is in the session hall, he has to state his vote. I could remember pretty well in the last voting that the names of two were not really called. It was merely said that their votes were such and such, so I think the motion is in order.

RULING OF THE CHAIR

THE PRESIDING OFFICER (Mr. Treñas). Are there any more comments?

The Chair rules that the motion is in order. Let us vote on the motion of Commissioner Monsod.

MS. QUESADA. Before making the vote, may we just ask the rationale, the basis on which the Chair made its decision to accept the motion.

THE PRESIDING OFFICER (Mr. Treñas). The Chair has already ruled that the motion is in order.

MS. QUESADA. Given the explanation of Commissioner Sarmiento, what does the Chair think about the principle being cited? This will be setting a precedent in the future on which ruling we are going to use.

THE PRESIDING OFFICER (Mr. Treñas). The Chair believes that there was no clear voting; there were Commissioners who voted after the second call. So, to clarify the matter, the Chair rules that way and gives due course to the motion of Commissioner Monsod for a recount.

MS. QUESADA. It is rather unfair because everytime we throw this to a vote we end up being outvoted, so I think just throwing it to the body for voting is not going to be the solution to resolve the issue.

THE PRESIDING OFFICER (Mr. Treñas). Let the whole Commission decide this matter.

SUSPENSION OF SESSION

MR. MONSOD. Mr. Presiding Officer, may we ask for a few minutes' suspension of the session?

THE PRESIDING OFFICER (Mr. Treñas). The session is suspended for a few minutes.

It was 3:13 p.m.

RESUMPTION OF SESSION

At 3:27 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas). The session is resumed.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Sarmiento is recognized.

MR. SARMIENTO. I am made to understand that the ruling of the Chair is that we will proceed to a voting. In other words, we will have a recounting or revoting. But the *Rules of the House of Representatives* is very clear, Mr. Presiding Officer, as was enunciated by Commissioner Maambong, and I would like to quote it:

> A Member may not change his vote on recapitulation if the result has been announced but errors in the record of such votes may be corrected.

It is clear, Mr. Presiding Officer, that since there would be a recapitulation of the result of the voting, then no Member will be allowed to change his vote.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Monsod is recognized.

MR. MONSOD. In the interest of the body so that we do not exacerbate the situation, I would like to withdraw my motion.

THE PRESIDING OFFICER (Mr. Treñas). The motion is granted. The motion of Commissioner Monsod is hereby considered as withdrawn. May we proceed?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. I have a proposed amendment. The proposal is to change the word "broaden" to the following: "ENSURE EQUAL ACCESS TO." Then instead of "office" on line 13, I propose to substitute the same with the word "SERVICE." So the entire section will read: "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties." I would like to explain the change from "office" to "SERVICE." If we change "office" to "SERVICE," we would refer to both elective and appointive positions. And political dynasties do not necessarily apply to elective positions alone. They would include appointive positions and perhaps more on the latter because it is easier to get a political appointment if somebody close to the family is an elective official, but it is difficult to have a political dynasty on the basis of election because election is an expensive exercise.

I changed the word "broaden" to "ENSURE EQUAL ACCESS TO" because what is important would be equal access to the opportunity. If you broaden, it would necessarily mean that the government would be mandated to create as many offices as are possible to accommodate as many people as are also possible. That is the meaning of broadening opportunities to public service. So, in order that we should not mandate the State to make the government the number one employer and to limit offices only to what may be necessary and expedient yet offering equal opportunities to access to it, I changed the word "broaden."

May we request the reaction of the committee?

THE PRESIDING OFFICER (Mr. Treñas). What does the committee say?

MR. TINGSON. Will the Commissioner kindly restate his amendment ?

MR. DAVIDE. As amended it will read: "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties."

MR. TINGSON. Yes, the committee accepts the amendment.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rodrigo is recognized.

MR. RODRIGO. I would like to propose an amendment to that amendment; that is, by deleting the words "AND PROHIBIT POLITICAL DYNASTIES."

MR. ABUBAKAR. I second the motion.

THE PRESIDING OFFICER (Mr. Treñas). What does Commissioner Davide say?

MR. DAVIDE. I would rather leave it to the Commission, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). What does the committee say?

MR. TINGSON. We will leave it to the body.

MR. GUINGONA. Is that already a motion?

MR. NOLLEDO. As far as I am concerned, Mr. Presiding Officer, I vigorously object to the amendment of Commissioner Rodrigo.

MR. RODRIGO. That is an amendment to the amendment which was neither accepted nor rejected. The proponent says that he would rather leave it to the body.

MR. GUINGONA. Yes. But would that mean that, if it is deleted, we will not be able to introduce further amendments along this line not exactly in the same words but still referring to political dynasties, Mr. Presiding Officer?

MR. NOLLEDO. Mr. Presiding Officer, may I raise a point of order?

THE PRESIDING OFFICER (Mr. Treñas). The Commissioner will please proceed.

MR. NOLLEDO. We have already decided to retain these words including prohibition against political dynasty, as stated. There was a move to delete the provision and the substance of the provision is found in the term "political dynasties." The intention of the committee is to prohibit political dynasties and, therefore, this intention must be correlated with the entire provision. Therefore, the motion of Commissioner Rodrigo is out of order.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rodrigo will please proceed.

MR. RODRIGO. My motion is not out of order because what was voted down before was the deletion of the whole section. And now, there is a reworded proposal, and I am asking for a deletion of a portion of the reworded proposal. There is a difference. After the motion to delete the whole section was voted down, this amendment by substitution was submitted. And my amendment to the amendment is to delete a portion of the amendment by substitution. So that is not *res judicata,* if we were to use a judicial term.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Nolledo is recognized.

MR. NOLLEDO. The very life and substance of the provision is found in the words "prohibit political dynasties" and I think it was in that sense that the Commission voted in favor of retaining the provision.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Maambong is recognized.

MR. MAAMBONG. The point of order raised by Commissioner Nolledo is very well covered by Section 50 of the Rules of the Constitutional Commission, second sentence of which reads:

> x x x A motion to strike out being lost shall not preclude an amendment or motion to strike out and insert.

That is precisely the reason the committee and the Chair allowed Commissioner Davide to introduce an amendment, because if it were not allowed and if we were to follow the point of order raised by Commissioner Nolledo, there is no point of Commissioner Davide standing up and amending the particular section not deleted by decision of the body. So, the amendment of Commissioner Rodrigo is quite valid because of Section 50. May I reread the whole of Section 50, Mr. Presiding Officer.

> SEC. 50. *Motion to strike out and insert* – A motion to strike out and insert is indivisible. A motion to strike out being lost shall not preclude an amendment or motion to strike out and insert.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, may I just state one sentence?

THE PRESIDING OFFICER (Mr. Treñas). What does Commissioner Nolledo say in response?

MR. NOLLEDO. I would like to say that the motion of Commissioner Rodrigo is really a motion to delete the very life of the provision. So he is restating the original motion which was already defeated.

MR. RODRIGO. No, Mr. Presiding Officer. The substance of the provision, even before the amendment, is to broaden opportunities to public office.

MR. NOLLEDO. That is not the substance.

MR. RODRIGO. This matter of political dynasty is just a colatilla and in the reformulated amendment by substitution, the substance is also to broaden opportunities to seek public office. As a matter of fact, I am asking for the deletion of "AND PROHIBIT POLITICAL DYNASTIES" because, by prohibiting political dynasties, we do not broaden but restrict opportunities for public office. That phrase is even incompatible, inconsistent with the very substance of the proposed amendment.

MS. QUESADA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Quesada is recognized.

MS. QUESADA. Parliamentary inquiry. Can we ask our parliamentarian, Commissioner Maambong, clarification for us "nonparliamentarians" who are getting confused with the rigmarole of rules that are being used? We are lost somehow in the process of discussion. If I recall it right, as stated in the provision that was read in our Rules, when the motion to delete is lost – and that was the motion that we first heard this morning if I remember it right, by Commissioner Monsod and Commissioner Jamir – it was lost. But now it appears that there is another motion to delete the words that were contained in the total section which we had already approved.

MR. MAAMBONG. Mr. Presiding Officer, let us translate the Rules into simple terms. We have a formulation presented by the committee. Then there was a motion to delete. The motion to delete was lost. What is the effect? We are back to square one. We still have the formulation of the committee, which is now subject to amendment and that is exactly what we are doing. When the motion to delete was lost, the original formulation of the committee remains on the record and it is now subject to amendment. That is why the Rules clearly provides that when the motion to delete is lost, it shall not preclude an amendment or motion to strike out and insert, meaning, that we are back to square one. We still have the original formulation of the committee, which is now subject to amendment.

MS. QUESADA. Commissioner Maambong, would the basic concepts contained in the proposed provision be changed?

MR. MAAMBONG. We can change the concept; we can even change the whole provision because we are now open to amendment – we call it the primary amendment – because the original provision is now back in the committee report, since the motion to delete was lost. That is the situation, Mr. Presiding Officer.

MS. QUESADA. All right.

MR. NOLLEDO. Mr. Presiding Officer, I have to answer.

THE PRESIDING OFFICER (Mr. Treñas). Is Commissioner Quesada clarified?

MS. QUESADA. I am just wondering why on this very important issue which, as the people have expressed is one of their big concerns, we seem to be divided. I just feel that we have to respond to the people's call during the public hearings when we said we never again should allow political dynasties to rule in our country.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Guingona is recognized.

MR. GUINGONA. May I respectfully request for a reply regarding my question if the proposed amendment of Commissioner Rodrigo is approved by this Commission whether we would be precluded from proposing another amendment relative to political dynasties?

MR. RODRIGO. My opinion is, if the proposed addition is substantially the same as the portion that was deleted, then that cannot be considered anymore. But if it is not substantially the same, then it can be considered.

MR. GUINGONA. I was asking for the reply of the Chair.

THE PRESIDING OFFICER (Mr. Treñas). Yes, the Chair agrees, if there is substantial change.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Nolledo is recognized.

MR. NOLLEDO. I would like to respond to the statement of Commissioner Rodrigo that the prohibition of political dynasties is only correlative to the first part. I was interpellated by Commissioner Ople and I agreed with him when he asked if it was the intention of the committee to prohibit political dynasties in order to widen opportunities to public office and I answered yes. In other words, the first part is only the effect of the conclusion and that was very clear when Commissioner Ople interpellated me. I vigorously dissent from his view that by prohibiting political dynasties we will limit opportunities to public office. I adequately explained this already this morning and I need not repeat it unless Commissioner Rodrigo is willing to listen again.

MR. RODRIGO. The Gentleman has said enough.

SR. TAN. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Chair recognizes Commissioner Tan.

SR. TAN. Mr. Presiding Officer, if I understand the main import and the main content of what we voted on so passionately, it was political dynasties. Now we are changing and amending it, and we can make the law. We can apply the law in whatever way we wish so that it comes out that we are not returning what we tried to delete, but in our hearts we know that the main point was political dynasties. And whatever words we use, we know that the main point is political dynasties. And I want to put that on record because those who vote against are voting against political dynasties, and those who vote for, want political dynasties to be perpetuated.

MR. DE CASTRO. Mr. Presiding Officer.

MR. ABUBAKAR. Mr. Presiding Officer, I have not spoken yet.

THE PRESIDING OFFICER (Mr. Treñas). Just a minute. Who is first?

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner de Castro is recognized.

MR. DE CASTRO. Thank you.

We are not talking here of political dynasties; we are talking here of Rule X, Section 50 of our Rules as well-explained and expounded by Honorable Maambong. I will request, therefore, that Section 50 of our Rules be applied.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Abubakar is recognized.

MR. ABUBAKAR. I just arrived and it seems the debate centers on a proposition that is vital to our democracy.

This Constitutional Commission, composed of intelligent people, people who believe in the dictum that the voice of the people is the voice of God, is very religious. How can we, on the assumption that we are only appointed, or even if we were elected, suppress the voice of the people if they want an elected representative to continue with one, two, three terms? So be it. We are not here to suppress that voice. We are here to give reality and to give substance to what the people want; not to suppress their desire to elect their own representatives for the terms that they wanted them to have. So I would presume that this Commission will be able to come up with a Constitution that the people can embrace, approve and conceive as a document that looks after their interest, first and foremost. We should not contradict this voice. If a dynasty or a family is wanted by the people to represent them for two terms and another would succeed, who are we to question their choice or their voice? We are here on a constitutional mandate, and let not our power be abused at the expense of the right of the people for I believe in the dictum that the ultimate power lies in the people and the voice of the people is the voice of God. So, I agree with the proposition of Commissioner Rodrigo, which is to eliminate that portion and let the beginning stand and eliminate "prohibit political dynasties."

THE PRESIDING OFFICER (Mr. Treñas). The Chair noticed that the Floor Leader, Mr. Rama, is not here, and appoints Commissioner Maambong as Acting Floor Leader.

May the Chair inquire what the parliamentary situation is.

MR. MAAMBONG. I think, Mr. Presiding Officer, we are ready to take a vote on the motion of Commissioner Rodrigo for the deletion of that particular portion he mentioned.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I just say a few words? May I just trace the history of this discussion? Before the suspension of the session this noon, Mr. Presiding Officer, we have this motion from Commissioner Monsod for the total deletion of this section and by a vote of 18 against 17, the motion was rejected or voted down. Now we have this Rodrigo motion for the deletion of that portion of the whole which we already approved in principle. In other words, here he comes asking for the deletion of that part which is a parcel of the whole which we have acted upon favorably. My submission, Mr. Presiding Officer, is that it is out of order. Secondly, we have this comment from Commissioner Maambong citing Section 50 of the Rules. But Section 50 reads: "Motion to strike out and insert." It is not only motion to strike out but we have the two words "and insert." At most, for the motion to be proper, it should be a motion to strike out and insert, but Commissioner Rodrigo's motion is only a motion to strike out.

MR. DE CASTRO. Please read the second sentence.

MR. SARMIENTO. But the section should be read as a whole.

THE PRESIDING OFFICER (Mr. Treñas). Just a minute, Commissioner Sarmiento has the floor.

MR. SARMIENTO. My submission, Mr. Presiding Officer, is that the motion to strike out is a violation of what we have approved favorably this noon and a violation of Section 50 of our Rules.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Does Commissioner de Castro desire to be recognized?

MR. DE CASTRO. I would request the Honorable Sarmiento to read the second sentence of Section 50. It states, and I quote: "A motion to strike out" – and that is the motion of Commissioner Monsod to delete – "being lost," which was lost by questionable votes, "shall not preclude an amendment . . ."

Now here comes Commissioner Davide making the amendment – "or motion to strike out." Then here comes Commissioner Rodrigo striking out. Mr. Presiding Officer, the whole of the second sentence of Section 50 is applicable to the question on the floor now. I support the explanation of Commissioner Maambong.

MR. SARMIENTO. May I respond, Mr. Presiding Officer, to the comments of Commissioner de Castro.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Just a minute, Commissioner Sarmiento.

MR. SARMIENTO. May I invite the attention of Commissioner de Castro. The caption of Section 50 reads: *"Motion to strike out and insert."* And the first sentence also reads: "A motion to strike out and insert is indivisible."

MR. DE CASTRO. Yes, we agree.

MR. SARMIENTO. So we should read the section *in toto,* Mr. Presiding Officer, not by parts.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Maambong is recognized.

MR. MAAMBONG. Before we take a vote, may I ask that Commissioner Davide be recognized?

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. Mr. Presiding Officer, since the motion of Commissioner Rodrigo is directed to my amendment, I would only like to explain that I am not accepting the same. And I do not think Section 50 will apply, because I now feel very strongly that the second sentence of Section 50 would only be true if the motion following a rejection of a motion to strike out would be an indivisible motion consisting actually of two: to strike out and to insert.

The amendment of Commissioner Rodrigo is merely an amendment to my amendment. My amendment is not to strike out and insert, but merely to change certain words. And so, I feel that if the matter is to be submitted to a vote, we should consider into account that the motion of Commissioner Rodrigo, he not being the main proponent of an amendment, cannot be taken under Section 50 as a motion indivisible in character, which is a motion to strike out and to insert.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner de Castro is recognized.

MR. DE CASTRO. There are only two sentences of Section 50. I am not interpreting it as a lawyer. I am only interpreting it as a layman: Motion to strike out and insert. Dalawa iyan – strike out and insert. That is the caption of the section. Comes now the first sentence, "A motion to strike out and insert is indivisible." Unluckily, the motion of Commissioner Monsod is only to strike out – to delete; not to insert. So, that first sentence does not apply. What is applicable now is a motion to strike out, no longer insert. Basahin ninyo iyan. Walang "insert" diyan. "Being lost." In fact, it was lost. "Shall not preclude," hindi aniya maaaring pagbawalan ang gagawing amendment or motion to strike out and insert, which is the motion of the Honorable Davide. And here comes the Honorable Rodrigo striking out certain portions.

I would request the Honorable Chief Justice, the ranking jurist in this hall – I am not interpreting this as a lawyer, although I am a lawyer – to clear the situation for us.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). May we have a recess?

MR. RODRIGO. Yes, I just want to state that the situation is this. Commissioner Davide so presented an amendment by substitution. And I presented an amendment to his amendment. He did not accept my amendment to his amendment. So the situation is, the body should vote on whether to vote for or against my amendment to his amendment.

MR. DAVIDE. Mr. Presiding Officer, for the record, my amendment was not an amendment by substitution. My amendment is to change only the following words— "broaden" and "office." And so, it is not to be considered technically as an amendment by substitution.

MR. SUAREZ. Mr. Presiding Officer, may we be recognized?

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

May we address a few questions to the Honorable Nolledo who is seeking a question of point of order as against the proposals submitted by the Honorable Commissioner Rodrigo.

MR. NOLLEDO. Willingly, Mr. Presiding Officer.

MR. SUAREZ. Thank you.

Mr. Presiding Officer, the Gentleman is raising a point of order because of the fact that before we recessed at lunchtime, there was already a motion to delete this particular section and that motion was turned down by a vote of 18 against 19. Is my understanding correct, Mr. Presiding Officer?

MR. NOLLEDO. Correct, Mr. Presiding Officer.

MR. SUAREZ. And the Gentleman is saying that because of such development, that should practically bar any further motion to delete the substance of this particular provision. Am I also right in my understanding, Mr. Presiding Officer?

MR. NOLLEDO. The Gentleman is absolutely right, Mr. Presiding Officer, with emphasis on the word "substance."

MR. SUAREZ. And when we speak of "substance" there are two things, two principal features that appear in this particular provision: The first one is that one pointed out by the Honorable Rodrigo; that is, the broadening of opportunities for public participation by the people, and the second one is the one pointed out by the Gentleman – the prohibition against political dynasties. Am I right in that regard, Mr. Presiding Officer?

MR. NOLLEDO. Yes, Mr. Presiding Officer, and may I add that before the motion to delete was filed by Commissioner Monsod, all the discussions were centered on whether or not to prohibit political dynasties.

MR. SUAREZ. That was beautifully put, and I confirm that because I was listening to all the arguments regarding this matter seeking the deletion of that particular phrase regarding the establishment or creation of political dynasties.

Not too long ago, Mr. Presiding Officer, I also suffered a similar setback regarding this. The Gentleman will remember that when we were seeking the deletion of the phrase in connection with that provision in the Declaration of Principles governing the establishment of foreign military bases here – transposition from the Declaration of Principles Article to the Article on Transitory Provisions beginning with the words "after the termination of the RP-US Bases Military Agreement in 1991." And I was met with the observation by no less than the chairman of the Steering Committee that we must be governed, not only by the text, but also by the concepts and principles which are covered by the particular provision, the deletion of which is being sought. Does the Gentleman remember that incident, Mr. Presiding Officer?

MR. NOLLEDO. I remember very well, Mr. Presiding Officer.

MR. SUAREZ. Now the Gentleman is invoking the principle that after all is said and done, nothing should be in derogation of the substance and the principles already enunciated and already stated in the principle which had already been attacked by virtue of a motion to delete which had been voted down by the House or by the Commission.

MR. NOLLEDO. The Gentleman is right, Mr. Presiding Officer, and, therefore, the provision authorizing to strike out in Section 50 of our Rules cannot apply to the substance of this provision.

MR. SUAREZ. And that is the reason the Gentleman is saying that the Honorable Rodrigo, with due respect to him, is out of order in this regard.

MR. NOLLEDO. Yes, Mr. Presiding Officer.

MR. SUAREZ. Thank you, Mr. Presiding Officer.

MR. RODRIGO. Mr. Presiding Officer.

MR. PADILLA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rodrigo is recognized.

MR. RODRIGO. Yes. When Commissioner Davide proposed his amendment to Section 19, he did not just say change this word to another word or change that word to another word. He submitted a whole sentence similar to this provision. So, I took it as an amendment by substitution. And it being an amendment by substitution, I stood up to propose an amendment to his amendment, which is to delete a portion of this section as formulated by him – the portion is to prohibit political dynasties. They say this was already voted upon. No. What was voted upon was the deletion of the entire section before. And by deleting that entire section we would delete the most important principle enunciated in that section; that is, the first portion of that section which reads: "The State shall broaden opportunities to public office." That is the very important principle in that section.

MR. NOLLEDO. Mr. Presiding Officer.

MR. RODRIGO. I would presume that those who voted against the deletion of the entire section had in mind that very important principle which would have been deleted if the motion to delete the entire section being voted upon won. But now, I am not asking for the deletion of the entire section. I am only asking for the deletion of a portion of the section as reworded by the proponent, Commissioner Davide.

MR. MAAMBONG. Mr. Presiding Officer.

MR. RODRIGO. Commissioner Davide refused my amendment. I think the situation should be to let the body vote on my amendment to my amendment. Why prevent the body?

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Just a minute, Commissioner Padilla has been standing for some time.

MR. PADILLA. Mr. Presiding Officer, as I understand the situation, there is a provision supported or advocated by the committee. Then, Commissioner Davide proposed an amendment to the provision. Thereafter, Commissioner Rodrigo submitted an amendment to the amendment of Mr. Davide which Mr. Davide did not accept. And, therefore, the parliamentary situation is: That the body should vote on the amendment to the amendment. And that is provided in Section 48 on Amendments:

> When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order.

So, we should vote on the amendment of Commissioner Rodrigo to the amendment of Commissioner Davide which the latter did not accept.

MR. MAAMBONG. Mr. Presiding Officer.

MR. GASCON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Maambong is recognized first.

MR. MAAMBONG. So we can go forward, Mr. Presiding Officer. I would like to clarify the situation by asking the committee, first, whether it accepts the amendment of Commissioner Davide to delete the word "broaden" and in its place to put the words "ENSURE EQUAL ACCESS TO"; to delete the word "office" and replace it with "SERVICE." So that the whole Section would read: "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties."

MR. TINGSON. Mr. Presiding Officer, the committee would accept that.

MR. MAAMBONG. Since that is accepted, there is now a pending motion to amend the amendment of Commissioner Davide by Commissioner Rodrigo. But just to keep the parliamentary situation in order, we cannot proceed to that, Mr. Presiding Officer, unless we resolve the point of order raised by Commissioner Nolledo. And the point of order raised is that we cannot vote on the motion of Commissioner Rodrigo to delete the words "and prohibit political dynasties." There are some who believe that Section 50, which is very clear, should apply; the others believe that Section 50 should not apply. So, we request the ruling of the Chair on the point of order of Commissioner Nolledo so that we can proceed further.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Treñas). Before the Chair makes a ruling, it would like to have the session suspended.

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:06 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas). The session is resumed.

MR. MAAMBONG. Mr. Presiding Officer, we are now ready to vote on the point of order presented by Commissioner Nolledo of the committee.

RULING OF THE CHAIR

THE PRESIDING OFFICER (Mr. Treñas). The Chair rules that the point of order raised by Commissioner Nolledo is not well taken because of Section 50.

MR. NOLLEDO. Mr. Presiding Officer, I appeal to the ruling of the Chair.

MR. MAAMBONG. Mr. Presiding Officer, an appeal to the ruling of the Chair is not debatable. We can now put it to a vote. Those who are in favor, for example, of the ruling of the Chair and those who are against. May the Chair now put forward the appeal of Commissioner Nolledo so that the floor can vote on it.

THE PRESIDING OFFICER (Mr. Treñas). Since Commissioner Nolledo has appealed to the Commission on its ruling, those in favor of the ruling of the Chair just made, please raise their hand.

MR. DE CASTRO. Mr. Presiding Officer, before we vote . . .

THE PRESIDING OFFICER (Mr. Treñas). We are voting already.

MR. DE CASTRO. May I know the basis of the appeal?

MR. NOLLEDO. The basis of the appeal can be gleamed from the arguments that I have presented. I have presented the arguments against the motion of Commissioner Rodrigo and the arguments are embodied therein.

VOTING

THE PRESIDING OFFICER (Mr. Treñas). Can we proceed?

As many as are in favor of the ruling of the Chair just made, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(Few Members raised their hand.)*

As many as are abstaining, please raise their hand. *(No Member raised his hand.)*

The results show 18 votes in favor, 14 against and no abstention; the ruling of the Chair is upheld.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. We are now ready to vote on the amendment of Commissioner Rodrigo to the amendment of Commissioner Davide. I would like to clarify the situation. The amendment of Commissioner Davide as incorporated, Section 23, which is now Section 20, reads: "The State shall ENSURE EQUAL ACCESS TO opportunities to public service and prohibit political dynasties." The amendment to the amendment of Commissioner Rodrigo would seek to delete the following words after "service" – "and prohibit political dynasties."

We are ready for a vote, Mr. Presiding Officer.

MR. GASCON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Gascon is recognized.

MR. GASCON. Since we voted nominally this morning, I would like to request that we vote again nominally on the motion to delete of Commissioner Rodrigo.

THE PRESIDING OFFICER (Mr. Treñas). Before we vote, may the Chair request that the bell be rung so that Commissioners will come in. *(The bell is sounded to call in the Commissioners.)*

MR. COLAYCO. Mr. Presiding Officer, may I be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Colayco is recognized.

MR. COLAYCO. I believe that we are departing from past practice. My recollection is that when an amendment is proposed to a first amendment and the proponent of the first amendment does not accept the second amendment to his amendment, the body voted on the main amendment first. That is my recollection.

What is going to happen now? Let us suppose now that the amendment of Commissioner Rodrigo is voted upon favorably. It would, in effect, be a reconsideration of the first vote taken on the main section. Will that stop now an amendment again to resurrect on the same issue? We will never be finished with this.

THE PRESIDING OFFICER (Mr. Treñas). Is the Gentleman through?

MR. COLAYCO. Let us simplify the issue. The first issue was that the body rejected the motion to delete the section prohibiting political dynasties. As things stood then, the section prohibiting political dynasties was approved. Now, if we are going to accept the amendment of Commissioner Rodrigo, it is, in effect, a motion for reconsideration because substantially it is the same.

But what happens if we vote now in favor of the motion for reconsideration of the amendment? We will be back where we were. Again what will stop somebody with another amendment to amend the vote which, in effect, struck out the section, which we have agreed upon by a vote of 18 to 17 to remain?

I think the motion of Commissioner Rodrigo is inconsistent with the first vote which approved the retention of the section for the prohibition against a political dynasty. That is my position, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). May I call the Gentleman's attention to Section 48 of our Rules which provides, among others, and I quote:

> When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order.

MR. COLAYCO. But the basic issue, Mr. Presiding Officer, is whether the amendment which is sought to be pushed by Commissioner Rodrigo is not inconsistent with the first position taken and voted upon affirmatively by the body.

MR. RODRIGO. Mr. Presiding Officer, that matter was already decided by the body; that was the subject of the point of order by Commissioner Nolledo, and we already voted on that.

THE PRESIDING OFFICER (Mr. Treñas). Precisely.

MR. COLAYCO. I bow to the majority.

THE PRESIDING OFFICER (Mr. Treñas). To be cleared, can the Acting Floor Leader state the motion supposed to be voted upon.

MR. MAAMBONG. Thank you, Mr. Presiding Officer.

The issue before the body, Mr. Presiding Officer, is the amendment to the amendment of Commissioner Davide presented by Commissioner Rodrigo, and this amendment to the amendment seeks to delete the words "and prohibit political dynasties" in Section 23 which is now Section 20.

I will repeat that. The amendment to the amendment seeks to delete the words "and prohibit political dynasties" from that particular section. We are ready for a vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). As many as are in favor, please raise their hand.

MR. GASCON. I made a motion for nominal voting, Mr. Presiding Officer.

MR. NOLLEDO. There is a request for nominal voting, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Will the Acting Floor Leader state the amendment for the clarification of all, so that they will know and there is no question later on?

MR. MAAMBONG. The amendment of Commissioner Rodrigo seeks to delete the words "and prohibit political dynasties."

Those who vote "yes" will be voting for the deletion of the words "and prohibit political dynasties." I think that is clear enough.

THE PRESIDING OFFICER (Mr. Treñas). Is that clear enough?

MR. MAAMBONG. But before we proceed, Mr. Presiding Officer, I am still worried about the Rules. In case of nominal voting, there is supposed to be one-fifth of the membership of the body who should vote for nominal voting.

I am asking that, considering that 14 voted on the previous issue, the floor would like to suggest that we will waive that requirement of one-fifth. At any rate, we can get one-fifth anyway. Just the same, I want to indicate that in the proceedings so that it will not appear that the Acting Floor Leader was remiss in his duties regarding the one-fifth requirement of nominal voting.

Thank you, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner de Castro is recognized.

MR. DE CASTRO. Just a matter of clarification. Can anybody ask for a nominal voting?

THE PRESIDING OFFICER (Mr. Treñas). Yes.

MR. DE CASTRO. If the answer is yes, it is all right with me, because the Rules does not also say who can ask for nominal voting. The Rules is silent on this.

Now, may the Chair inform us whether anybody, any Member of the Commission can ask for nominal voting?

THE PRESIDING OFFICER (Mr. Treñas). What we have done before was, upon request, to have nominal voting.

MR. DE CASTRO. Upon request of one?

THE PRESIDING OFFICER (Mr. Treñas). Yes.

MR. DE CASTRO. Then the next question is for clarification. When we vote "yes," it means that we are in favor of the Rodrigo amendment; that is, to delete the words "and prohibit political dynasties," and when we vote "no," that means the words "political dynasties" shall stay there.

Thank you, Mr. Presiding Officer.

NOMINAL VOTING

THE PRESIDING OFFICER (Mr. Treñas). We shall now proceed to a nominal voting on this matter.

FIRST ROLL CALL

THE SECRETARY-GENERAL, *reading:*

Abubakar	Yes
Alonto	
Aquino	No
Azcuna	No
Bacani	No
Bengzon	Yes

Bennagen	No	Concepcion	Yes
Bernas	No	Davide	No
Rosario Braid	No	Foz	No
Calderon	Yes	Garcia	No
Castro de	Yes	Gascon	
Colayco	No		

COMMISSIONER GASCON EXPLAINS HIS VOTE

MR. GASCON. I would like to explain my negative vote. I believe that we should have a categorical statement on prohibition of political dynasties, and second, I personally believe that this is a motion for reconsideration of what we already agreed upon.

THE SECRETARY-GENERAL, *reading:*

Guingona	No	Padilla	Yes
Jamir	Yes	Quesada	No
Lerum		Rama	
Maambong	Yes	Reyes de los	No
Monsod	Yes	Rigos	Yes
Muñoz-Palma		Rodrigo	Yes
Natividad	Yes	Romulo	Yes
Nieva	No	Rosales	
Nolledo	No	Sarmiento	No
Ople	Yes	Suarez	

COMMISSIONER SUAREZ EXPLAINS HIS VOTE

MR. SUAREZ. I vote no, and I submit, Mr. Presiding Officer, that we should have integrity in the decisions already made by the Commission and by the Commissioners.

THE SECRETARY-GENERAL, *reading:*

Sumulong	Yes	Tadeo	

COMMISSIONER TADEO EXPLAINS HIS VOTE

MR. TADEO. I vote no. Nais ko lang ipaliwanag ang aking boto.

Sa simpleng kaisipan ng magbubukid, sa pinagbotohan natin kanginang 17 and 18, ang pinakamahalaga ay ang prohibition ng political dynasties na siyang magbrobroaden ng opportunities sa public office.

Hindi ko makita ang katinuan ng kapulungang ito; hindi ko makita ang tilamsik ng katuwiran ng kapulungang ito. Ako ay nalilito. Sa simpleng kaalaman natin, pinagbotohan na natin ito. Pero bakit tayo nagkakaganito? Nawawala ang ating katinuan.

THE SECRETARY-GENERAL, *reading:*

Tan . . . .

COMMISSIONER TAN EXPLAINS HER VOTE

SR. TAN. I vote no, because I think we are being fooled.

THE SECRETARY-GENERAL, *reading:*

Tingson	Yes	Villacorta	No
Treñas	Yes	Villegas	
Uka	Yes		

SECOND ROLL CALL

THE PRESIDING OFFICER (Mr. Treñas). The Secretary-General will conduct a second call for those who have not registered their votes.

Alonto . . . .
Lerum . . . .
Muñoz Palma . . . . . .
Rama . . . .
Rosales . . . .
Villegas . . . .

THE PRESIDING OFFICER (Mr. Treñas). The results show 18 votes in favor, 21 against and no abstention; the proposed amendment of Mr. Rodrigo is lost.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, if there are no other amendments, the chairman of the committee is recognized.

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

MR. GUINGONA. Mr. Presiding Officer.

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Just a minute, Commissioner Tingson, the chairman is recognized.

MR. MAAMBONG. I would like to call on the floor, Mr. Presiding Officer, if there are no other amendments on this Section 23, which is now renumbered as Section 20. If there are no other amendments, I would now ask for a vote by the body on the amendment of Commissioner Davide.

MR. GUINGONA. Mr. Presiding Officer, I have an amendment to the amendment.

MR. MAAMBONG. Mr. Presiding Officer, I ask that Commissioner Guingona be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Guingona is recognized.

MR. GUINGONA. Inasmuch as the honorable Commissioner Nolledo has, in reply to my interpellation, mentioned that the term "political dynasties" has to be defined by law, I would like to add the words "AS MAY BE PROVIDED BY LAW." Would the Gentleman accept the amendment?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. I regret that I cannot accept the proposal for the following reasons: One, I do not think it would be appropriate to state in the Declaration of Principles that it may be provided by law.

Secondly, I think that Congress, in the exercise of its plenary power, can provide for the necessary guidelines in the implementation of the rule against political dynasties.

MR. GUINGONA. May I inquire, Mr. Presiding Officer, if the manifestation of Commissioner Davide is the sense of the committee?

THE PRESIDING OFFICER (Mr. Treñas). What does the committee say?

MR. TINGSON. I heard a while ago that we would accept that but I am not too sure now, Mr. Presiding Officer.

MR. NOLLEDO. I have no objection to the amendment of Commissioner Guingona because the definition of "political dynasty" is left to Congress.

MR. DAVIDE. Is that the stand of the committee? Since the committee has accepted my proposal, the committee has the complete jurisdiction over the matter. But I would rather, however, propose that instead of "as may be provided by law" we say "AS MAY BE DEFINED BY LAW."

MR. GUINGONA. "AS MAY BE DEFINED BY LAW." I will accede to that. Would the committee accept, Mr. Presiding Officer?

MR. TINGSON. We accept that. The committee accepts that.

MR. GUINGONA. Thank you, Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer, we are now ready to vote on the formulation of the original Section 23, now renumbered as Section 20, and it would read as follows, as amended by Commissioner Davide and amended also by Commissioner Guingona: "The State shall ENSURE EQUAL ACCESS TO OPPORTUNITIES TO PUBLIC SERVICE and prohibit political dynasties AS MAY BE DEFINED BY LAW." We are now ready for a vote; Mr. Presiding Officer.

MR. GASCON. Mine is just a question of style, Mr. Presiding Officer. Is it "TO PUBLIC SERVICE" or "FOR PUBLIC SERVICE"?

MR. DAVIDE. "TO" is better I guess, but "FOR" will still do. We would rather leave it to the Style Committee.

However, may I propose that there should be a comma (,) after "SERVICE" since the definition by law would refer to "political dynasties."

MR. MAAMBONG. We will, therefore, restate the formulation: "The State shall ENSURE EQUAL ACCESS TO OPPORTUNITIES TO PUBLIC SERVICE, and prohibit political dynasties AS MAY BE DEFINED BY LAW." We are now ready for a vote, Mr. Presiding Officer.

MR. SUAREZ. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Suarez is recognized.

MR. SUAREZ. Just a point of clarification from the distinguished proponent. May I just clear it up with Honorable Davide. There might be some points of inconsistency here because in the first sentence we are saying that the State should give equal access to opportunities in order that the people can render public service, but the last portion would prohibit political dynasties in the manner prescribed by law. Would this not be a limitation of that equal access to opportunities?

MR. DAVIDE. No, Mr. Presiding Officer. On the contrary the idea of eliminating political dynasties is really to see to it that there will be greater opportunities to public service. We have to consider the common good or the greater number of people who will be benefited. When we prohibit political dynasties, it is to open up the opportunities to more and more people, otherwise it would be a monopoly only of a very few.

MR. SUAREZ. In other words, what we are saying is we are prohibiting the incumbents and their relatives from aspiring for that same position so that everybody will have equal access to or opportunity for this position.

MR. DAVIDE. That is my perception, Mr. Presiding Officer – not only relatives aspiring for the same office. Probably the law may provide that during the incumbency of an elective official, relatives may not be allowed to run for a position within the same political unit or to be appointed to any position within the same political unit. I say the same political unit because necessarily we cannot prevent, for instance, a son whose father is the governor of Metro Manila to run in Davao.

MR. SUAREZ. Thank you for clearing up the apparent inconsistency which does not exist at all.

Thank you.

MR. MAAMBONG. We are now ready for a vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Is the body ready to vote on the formulation or should it be read again?

MR. MAAMBONG. I suggest that it would now be the committee which should present the formulation, if it has the complete formulation, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). For the information of the body, may the Chair suggest that the committee read what shall be voted upon.

MR. TINGSON. I think since Commissioner Nolledo has been carrying the ball for this, will the Gentleman kindly restate the formulation of Section 20.

MR. NOLLEDO. "The State shall ENSURE EQUAL ACCESS TO OPPORTUNITIES FOR PUBLIC SERVICE, and prohibit political dynasties AS MAY BE DEFINED BY LAW."

MR. MAAMBONG. With comma (,) after "service," Mr. Presiding Officer.

MR. NOLLEDO. Yes, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Treñas). As many as are in favor, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(One Member raised his hand.)*

As many as are abstaining, please raise their hand. *(One Member raised his hand.)*

The results show 25 votes in favor, 1 against and 1 abstention; Section 20 is approved.

MR. MAAMBONG. Mr. Presiding Officer, the body is now ready to consider the original Section 24, now renumbered Section 21, on the right of asylum to foreigners.

We turn this over, Mr. Presiding Officer, to the chairman of the committee.

THE PRESIDING OFFICER (Mr. Treñas). The chairman of the committee is recognized.

MR. TINGSON. Mr. Presiding Officer, allow me to read the original formulation here. Section 21 now reads: "The Philippines, under the conditions laid down by law, shall grant asylum to foreigners who are persecuted in their country in defense of human rights and in the liberation of their country, and they shall not be extradited."

Mr. Presiding Officer, as chairman of this committee, I have been looking for the paternity to this particular section. I was requested to refer to the other one, but the other one I referred to also did not want to do it. So, on my own as chairman of the committee, because of this, I am proposing that we delete this unless, of course, one of them would take it up.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Guingona is recognized.

MR. GUINGONA. I would like to support the proposal of the committee to delete.

May I be allowed to explain?

THE PRESIDING OFFICER (Mr. Treñas). Yes, in three minutes.

MR. GUINGONA. I would like to support the move to delete, notwithstanding the fact that I favor the extension of asylum to foreigners who are persecuted in their countries in defense of human rights and in the liberation of their country.

I am aware that the right of asylum is among those enumerated in the Universal Declaration of Human Rights. I believe, however, that the grant of asylum should not be contained in the fundamental law. It could be well the subject of statutory law which could determine when and to what extent the right is to be provided for, taking into consideration various factors, including the economic conditions of our country.

At the time when many of our brother and sister Filipinos are suffering from brutalizing poverty, perhaps we should concern ourselves more about them. After all, there is the truism that charity begins at home. This is not to say that we should close our doors completely to the possible entry of deserving refugees. All we are saying is that we should go slow about the grant of asylum at the present time without prejudice to being less selective in granting asylum as our country's economic recovery progresses.

Let me express a few random thoughts on the problems attendant to the grant of asylum. Unless adequate safeguards are provided, there is the possibility of our allowing the entry of undesirable aliens, including those who might be engaged in espionage, and people like Castro of Cuba and Khomeini of Iran, who were once upon a time legitimate freedom fighters. Also, it might be noted that the refugees are extended rights under the Refugee Convention of 1951 and the Protocol of 1967, as well as the Declaration on Territorial Asylum. Under the terms of the Convention, they are entitled to what is referred to as "quasi-consular" functions to be discharged by the asylum state. The refugee is supposed to enjoy rights, including assistance, which could include food, clothing and shelter where he has none (Article 25 of the Convention), be issued identity papers (Article 27) and others. Congress would probably have to set quotas in order to forestall the massive influx of refugees when a situation like the takeover by the Communists of Vietnam occurs.

The proposed provision even makes matters worse by saying that "refugees granted asylum shall not be extradited." It is quite possible that the State of which the refugee is or was a national, or the demanding State, might be able to produce after the grant of asylum convincing proof that the said refugee, while committing acts of sedition, had also committed other acts which are unrelated to his political offense, like murder, not homicide. Or it might produce convincing proof that before the commission of political offense, the refugee had, in fact, committed a criminal offense. Such was the case of Antonio Ezeta who was held extraditable on a charge of attempted murder prior to political hostilities. Or again acts may have been committed, unknown to the asylum State, during the commission of the political offense as happened to Clodovio Ortiz Gonzales, a paramilitary officer of the Trujillo Government in the Dominican Republic who was accused of torture.

THE PRESIDING OFFICER (Mr. Treñas). The Gentleman's three minutes is up.

MR. GUINGONA. Just to close, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). All right.

MR. GUINGONA. In all these instances, the State would be confronted with a problem. Under customary international law the committee would, in the instances cited, come into the picture especially where the State would wish to continue friendly relations. The matter would be aggravated if there were existing extradition treaties between the two countries because then we would be bound to honor the terms thereof, otherwise we would be violating the fundamental principle of *pacta sunt servanda.* Violation of the terms of the treaty could lead to denunciation or abrogation of the said treaty by the offended State.

Thank you, Mr. Presiding Officer.

MR. GARCIA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Garcia is recognized.

MR. GARCIA. Thank you very much.

First of all, I would like to protest vigorously what the acting chairman of the committee has done. This provision was actually already adopted by the Committee on the Bill of Rights, Political Rights, and it was sought that it be placed here on the Declaration of Principles which was also accepted by the committee. In fact, the committee amendment is only the deletion of the last phrase "and they shall not be extradited."

Let me explain very briefly. This is actually contained already in Number 1, Article XIV of the Universal Declaration of Human Rights which provides that everyone has the right to seek and enjoy in other countries asylum from persecution which is, in fact, a peaceful and humanitarian act.

Furthermore, on December 14, 1967, the General Assembly of the United Nations adopted a declaration on territorial asylum. The granting of political asylum is governed by certain articles in this declaration. Article I states:

> Asylum granted by a State in the exercise of its sovereignty to persons entitled to invoke Article XIV of the Universal Declaration of Human Rights, including persons struggling against colonialism, shall be respected by all other States.

No. 2 in the same article states:

> The right to seek and to enjoy asylum may not be invoked by any person with respect to whom there are serious reasons for considering that he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect to such crimes.

In other words, Mr. Presiding Officer, including this in our Declaration of Principles simply accepts what we already stated earlier in Article I of the Declaration of Principles and makes the international law and other such instruments as also part of our own legal equipment.

So, I would like very much to protest what the acting chairman has done. I think this has already been voted by the body to be incorporated into this Constitution. It was simply transposed to the Declaration of Principles. That is the state of this provision.

MR. TINGSON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

MR. TINGSON. Please allow me to explain. I know that Section 24, originally in our committee deliberations was fathered, so to speak, by Commissioner Nolledo and Commissioner Garcia. This morning I asked Commissioner Nolledo if he would please articulate this particular section because as chairman that is what I do, if the Gentleman has noticed. He said, "No, I will not do it, you ask Commissioner Garcia." I went to Commissioner Garcia and he also refused. So, I just took it for granted that both of them, being the original formulators of Section 24, were not interested anymore.

Anyway, I am not formally asking for deletion; I just thought that was what both of us wanted. But I did not formally ask for deletion. If the Gentleman is presenting it now and he is a member of the committee, then he has the privilege of doing it.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. What the Acting Floor Leader understood from the statement of Commissioner Tingson was that his suggestion to delete was subject to a resolutory condition that nobody would sponsor it. So, now that somebody is about to sponsor it, the Acting Floor Leader would like to know who indeed will sponsor this so that somebody can answer whatever questions will be propounded by the Members of the Commission. It is understood, Mr. Chairman, that the one who will answer any problems in the process of amendment will be Commissioner Garcia. Is the understanding of the Acting Floor Leader correct?

MR. TINGSON. And also Commissioner Nolledo.

MR. MAAMBONG. Thank you.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bernas is recognized.

FR. BERNAS. I would just like to reiterate the point raised by Commissioner Garcia with respect to that portion which grants asylum. I remember very distinctly when we were sponsoring the Article on the Bill of Rights that this was proposed by Commissioner Nolledo. I opposed Commissioner Nolledo. I lost to Commissioner Nolledo when the Commission voted and on the understanding that this provision would be transferred to the Declaration of Principles upon approval then, and it was approved then. So we cannot, it seems to me, reopen a discussion on the matter of asylum without suspending the Rules because, in effect, the motion to delete is a motion for reconsideration and the motion for reconsideration comes more than two months late.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. In order to clarify our records on this, if the Chairman of the Committee on the Bill of Rights is around, I hope there will be a confirmation of the statement of Commissioner Bernas.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Nolledo is recognized.

MR. NOLLEDO. That provision was adequately discussed before the Commission. It was even amended by Commissioner Ople when he added the words "as may be provided by law" because he felt that it should be Congress that should decide the conditions under which the right of asylum may be granted.

FR. BERNAS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bernas is recognized.

FR. BERNAS. I suggest that we go back to the records and find out what we approved then and then we will be able to determine just what we discussed and rather than discuss this now, we should go to another topic while the Secretariat can look this up in the records. It comes under the discussion on the Bill of Rights.

MR. MAAMBONG. Mr. Presiding Officer, in view of the manifestation of the Acting Chairman of the Bill of Rights, Commissioner Bernas, the Acting Floor Leader, therefore, moves to suspend consideration of Section 24 which is now renumbered Section 21 and we proceed to Section 25 now renumbered as Section 22 regarding the supremacy of civilian authority over the military. We now call the chairman of the committee.

THE PRESIDING OFFICER (Mr. Treñas). Is there any objection to the motion that we suspend consideration of Section 24, now Section 21, pending the checking of the records by the Secretary-General and we move to Section 25, now Section 22?

MR. OPLE. Mr. Presiding Officer, may I support the motion especially since I heard my name mentioned as one of those who amended the original provision. I do recall that I took part in the general debate and interpellation on this provisions. I do not recall that I was present during the period of amendments and had actually amended it. So I would be very indebted myself, if the memories of all the Commissioners could be helped through the production of the pertinent records.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Is there any objection to the motion that we move to Section 25, now Section 22? *(Silence)* The Chair hears none; the motion is carried.

We proceed to Section 25, now Section 22.

MR. MAAMBONG. Mr. Presiding Officer, I ask that the chairman of the committee be recognized.

THE PRESIDING OFFICER (Mr. Treñas). The chairman is recognized.

MR. TINGSON. Mr. Presiding Officer, Section 22 remains as originally formulated: "The civilian authority is at all times supreme over the military."

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. I have a very simple proposal, but to give it more teeth, to give it strength, vigor, vim and vitality, I propose to just insert a comma (,) after "is" and a comma (,) after "times." So it will read: "The civilian authority IS, at all times, supreme over the military."

THE PRESIDING OFFICER (Mr. Treñas). What does the committee say?

MR. TINGSON. We accept, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Is there any comment?

MR. MAAMBONG. Mr. Presiding Officer, there are no other Commissioners who would like to propose any amendments. We are now ready for a vote on Section 25 now renumbered as Section 22.

VOTING

THE PRESIDING OFFICER (Mr. Treñas). As many as are in favor of Section 25, now numbered 22, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No member raised his hand.)*

The results show 31 votes in favor; Section 25 now designated as Section 22 is approved, as amended.

MR. MAAMBONG. Mr. Presiding Officer, we are now going forward to Section 26, now renumbered as Section 23. We ask that the chairman of the committee be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

MR. TINGSON. Mr. Presiding Officer, the member of our committee who had something to do with the original formulation, Commissioner de Castro, will please be recognized.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner de Castro is recognized.

MR. DE CASTRO. This is my original proposal under Proposed Resolution No. 231, and with the permission of the acting chairman of the committee, I move that this Section 26, now 23, be deleted from the Declaration of Principles for the reasons I have stated before. And these reasons are: First, that this was recommended to me by the Armed Forces of the Philippines, not knowing that it was taken from the Declaration of Independence on July 4, 1776 of the original 13 States of the United States. But that is not the main reason for that because other Commissioners, particularly Commissioner Azcuna, has reformulated this section; but the second reason which is very strong to my feeling is that this provision speaks of the right of the people to change their government. Actually, it is a revolution that is behind this formulation, and I am most afraid that a small minority may use this to continue harassing or rise up in arms against the government.

And so based on those two reasons, Mr. Presiding Officer, I move that this provision under Section 23 of the Declaration of Principles be deleted.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Ople is recognized.

MR. OPLE. Before we act on the motion of Commissioner Crispino de Castro, may I manifest my intention in association with Commissioners Guingona, Maambong, Natividad and de los Reyes upon the deletion of this section to propose an amendment by substitution and, perhaps, we can, at the proper time, try to reconcile the Azcuna amendment with ours.

Thank you, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer, may I move for a suspension of a few minutes so that whatever proposal the Honorable Ople has can be reconciled with the formulation of Commissioner Azcuna?

THE PRESIDING OFFICER (Mr. Treñas). The session is suspended.

MR. MAAMBONG. Mr. Presiding Officer, with the indulgence of Commissioner de Castro, before the Chair rules on the motion for suspension, in line with our previous procedure, we can now act on the motion to delete; and later on, if there will be a new formulation from Commissioner Ople or Commissioner Azcuna, then we can act on it and we can ask for a suspension later on. But I think we can now act on the motion to delete, Mr. Presiding Officer.

MR. TINGSON. We subscribe to that, Mr. Presiding Officer. It is better to vote now on the motion to delete.

THE PRESIDING OFFICER (Mr. Treñas). Are we ready to vote or to suspend?

MR. TINGSON. Let us vote on the motion to delete.

VOTING

THE PRESIDING OFFICER (Mr. Treñas). As many as are in favor of the deletion of Section 26, now designated as Section 23, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

As many as are abstaining, please raise their hand. *(Few Members raised their hand.)*

The results show 25 votes in favor, none against and 4 abstentions; the motion to delete the whole section is approved.

SUSPENSION OF SESSION

MR. MAAMBONG. Mr. Presiding Officer, to give time to the proponents of Proposed Resolution No. 457, Commissioners Ople, Maambong, de los Reyes, Jr. and Natividad, and the proponents of the new formulation, including Commissioner Azcuna, we ask for a suspension of the session.

THE PRESIDING OFFICER (Mr. Treñas). The session is suspended.

It was 4:51 p.m.

RESUMPTION OF SESSION

At 5:26 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas). The session is resumed.

The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, we are now on the original Section 26 which is now Section 23. For purposes of record, the formulation on this section was originally proposed under Proposed Resolution No. 457 of Commissioners Ople, de los Reyes, Maambong and Natividad. There was also a formulation by Commissioner de Castro which appears in the committee report but which has already been deleted upon his own motion. We have a new formulation of Commissioners Ople, Guingona, de los Reyes, Jr., Natividad and Maambong; and we also have another formulation by the Honorable Adolfo Azcuna.

We would like to know from the committee, if the proponents have already agreed on a common formulation from the chairman of the committee, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

MR. TINGSON. Mr. Presiding Officer, may we please recognize Commissioner Ople.

MR. OPLE. With the leave of the chairman of the committee, may I request that Commissioner Azcuna present the agreed formulation.

MR. AZCUNA. It is being distributed now, Mr. Chairman.

May I read it, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Please proceed.

MR. AZCUNA. Section 23 will read: "WHEN GOVERNMENT SYSTEMATICALLY VIOLATES THE CONSTITUTION AND THE LAWS, IT FORFEITS ITS AUTHORITY, AND THE PEOPLE MAY TAKE STEPS TO REDRESS THIS FUNDAMENTAL WRONG AND ASSERT THEIR RIGHT TO A DEMOCRATIC GOVERNMENT THROUGH NON-VIOLENT MEANS."

The authors are Commissioners Ople, Guingona, de los Reyes, Jr., Natividad, Maambong and myself, Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer, may we know from Commissioner Azcuna if all the Members of the Commission have been furnished a copy of this new formulation so that they can look at it and comment on it intelligently.

MR. AZCUNA. They have been furnished just now, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The copies are being distributed, I think.

SUSPENSION OF SESSION

MR. MAAMBONG. May I ask for a suspension of just one minute so that all the Commissioners will be given their respective copies, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The session is suspended.

It was 5:29 p.m.

RESUMPTION OF SESSION

At 5:30 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Treñas). The session is resumed.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner de Castro is recognized.

MR. DE CASTRO. May I ask a few questions to the proponent of this formulation?

THE PRESIDING OFFICER (Mr. Treñas). Please proceed.

MR. DE CASTRO. When we say: "When the government systematically," who determines this systematical violation?

THE PRESIDING OFFICER (Mr. Treñas). Will the Gentleman tell us whom he wants to answer the question?

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Ople is recognized.

MR. OPLE. Who determines whether a systematic violation of the Constitution and the laws has taken place? I think it is the people themselves at that point that will determine whether a systematic violation has, in fact, taken place, and this is roughly equivalent to what in a previous formulation, until it was deleted, Commissioner Crispino de Castro has defined as a long train of usurpations and abuses.

So, it has to be a long train of usurpations and abuses, as the same declaration of independence of the United States says. People, in general, will gladly suffer their ills under a government that has ceased to be acceptable to them, rather than take a corrective action, because it is in the nature of people to want peace and stability, until, however, this long train of abuses and usurpations attains to a critical mass.

So that in the case of that country, it decided to express its dissent in a vigorous form, beginning with the Boston Tea Party, which raised the slogan of taxation without representation. So, the perception that the situation had become unbearable under an unjust government that had set aside the Constitution from which it derives its authority will be a perception of the people themselves, Mr. Presiding Officer.

MR. DE CASTRO. Is it possible that a small group like, for example, the Marcos loyalists, can say and determine that there is a systematic violation of the Constitution and the laws?

MR. OPLE. I do not think that that threat arises at all, Mr. Presiding Officer. I think at the present time, for example, although the interim Constitution has delivered vast powers to the existing government, there is a general presumption on the part of the people that the Constitution and the laws prevail, and, therefore, there can be no ground for a tiny minority of the population with certain political axes to grind to invoke this Section 23 in order to mount a revolt against the government.

What is contemplated here is that a broad consensus has developed that the systematic flouting of the Constitution and the laws has already reached an unbearable threshold.

MR. DE CASTRO. Is it possible that a group of labor unions, who may not be able to take what they like from the government, may say that there is a systematic violation of the Constitution and the laws?

MR. OPLE. No, that threat will not arise, Mr. Presiding Officer.

MR. DE CASTRO. Thank you.

MR. OPLE. That will not arise.

MR. DE CASTRO. When the Gentleman says the people may take steps, what are those steps that he has in mind?

MR. OPLE. That is a good question, Mr. Presiding Officer. May I say that in the Constitution that we are framing, we have already reserved to the people a number of powers. In the Committee on the Legislative, for example, in the Article on the Legislative, we reserve the power through the people as a last resort to make laws or to amend them through the power of initiative, referendum and recall.

In the Article on Constitutional Amendments, we build into the Constitution the reserve power of the people to amend or revise the Constitution, in accordance with the power of initiative that had been vested in them, as distinguished from the powers given to the legislature, either to summon a national constitutional convention or by themselves to act as a constituent assembly.

And, therefore, this will be the third reserve power in effect, subsuming all the rest according to which the people may take steps to redress a fundamental wrong when the Constitution is systematically violated.

MR. DE CASTRO. Is it possible that in taking these steps to correct a fundamental wrong this may include the use of arms even if the Gentleman states here through nonviolent means? I deleted my resolution, Section 26, because there was fear in me that arms may be taken up by even a minority group or a big group against the government and we are constitutionalizing it, although I would like to reflect on the 20 years' regime of the old administration and EDSA.

But then there is a possibility of revolt and revolution under that resolution. And from here, I can smell or I can see that the steps to right a fundamental wrong, although through nonviolent means, in all possibility is unarmed revolution, is that not the whole context of this?

MR. OPLE. No, Mr. Presiding Officer, the Constitution cannot sanction the use of violence.

MR. DE CASTRO. Of course.

MR. OPLE. So, it speaks of nonviolent means. It also includes a previous contribution of Commissioner Monsod about this means being both nonviolent and moral. In other words, such steps must be based on the spiritual values of a whole nation in order to qualify for this standard of nonviolent means.

MR. DE CASTRO. Thank you.

THE PRESIDING OFFICER (Mr. Treñas). The Gentleman's time is up.

MR. DE CASTRO. My three minutes is more in the length of the answer, Mr. Presiding Officer. *(Laughter)*

MR. OPLE. I try to help abbreviate the exchange, Mr. Presiding Officer.

MR. DE CASTRO. I tried as much as possible to decrease. That is why I tried to give the Gentleman more time.

Thank you, Mr. Presiding Officer.

MR. MAAMBONG. May I ask that Commissioner Rigos be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rigos is recognized.

REV. RIGOS. Mr. Presiding Officer, I would like to pursue the important questions raised by Commissioner de Castro. Suppose the people have correctly determined that the government systematically violates the Constitution. And in their desire to take steps to redress that fundamental evil and assert their right to a democratic government they resort to the use of violence simply because the government has access to the military arm of the government, will that step be unconstitutional under this formulation?

MR. OPLE. Mr. Presiding Officer, let us begin with the premise that the State under a constitution abhors lawless violence. The State is the only one in possession of lawful means of exerting violence, in accordance with law; therefore, in this proposed amendment, if the ruler has already broken his covenant with the people, has flouted the constitution and laws systematically and continuously, he vitiates his own authority to govern that is derived from a constitution and the law. And, therefore, even at that point, the expenditure of armed force may no longer be said to enjoy the protection of the constitution and the laws and if he applies governmental force at that point, he is himself engaged in lawless violence because he can no longer govern by authority of the constitution and of the laws. What this provision makes very explicit is that even when the people have reached that point of desperation over severe tyrannical misrule, they may utilize only nonviolent and moral means to secure that end of defending themselves and asserting their right to a democratic government, Mr. Presiding Officer.

REV. RIGOS. That is a very comforting answer except that we might worry a little bit about limiting the option of the people to only nonviolent means when there might be some circumstances when the use of force may be morally justified.

MR. OPLE. Then it will have to be justified on the basis of this provision, Mr. Presiding Officer.

MR. GARCIA. Mr. Presiding Officer.

REV. RIGOS. Thank you.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Garcia is recognized.

MR. GARCIA. I think the present formulation makes this provision superfluous, in fact, unnecessary. In the third paragraph of the Preamble of the Universal Declaration of Human Rights, it states:

> Whereas it is essential that man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

I think it is rather clear that in cases of long standing tyranny, no constitution can tell people what changes have to be done or the means to go about them. I also believe that it is the inherent right of the people to choose the viable means and ends they desire as a people to correct very serious abuses of a long-standing character.

Finally, I think nobody would debate the fact that the preferred path is the peaceful way to change. But I think we must also recognize that the people are sovereign and their choice of means unhampered. That is why there are revolutions in the world. If a revolution fails, then the people who conducted the revolution are jailed. But when a revolution precisely goes about to overturn a long standing tyranny, and the constitution sometimes goes with it, then those people are able to govern under a new set of just laws. So, I think the way the provision is formulated is, in fact, restrictive. I do not see how this would promote and provide that kind of reason for change.

MR. OPLE. Is Commissioner Garcia in favor of striking out the word "means," and instead say: "AND ASSERT THE RIGHT TO A DEMOCRATIC GOVERNMENT THROUGH NON-VIOLENT MEANS"? Does the Commissioner consider that a restriction? Will this section rise to the sufficiency that Commissioner Garcia contemplates if we do away with this constraint of "through non-violent means"?

MR. GARCIA. In fact I am wondering whether it is wise to have it at all, because it is clear for many of us that the preferred path is peaceful. I, myself, am committed to nonviolence. We realize in the Preamble of the Universal Declaration of Human Rights that one of the major reasons why rights must be respected and protected is that people do not have to resort to rebellion as a last recourse. But the point is, still that is a reserved right of the people in case of long-standing tyranny which I think is also stated in paragraph 32 of *Populorum Progresio.* Even in the Catholic doctrine, the fact is that the people in these extreme situations have that right. I believe it is an inherent right of any people. But to state it in such a fashion, I am not sure if that would be sufficient.

MR. OPLE. If it is an inherent right, then I agree. I also believe it is an unspoken major premise of all written democratic constitutions. Why then should we hesitate to make that right explicit and articulate in the Declaration of Principles of our Constitution? Especially on the basis of contemporary experience, this is an eminently practicable and workable approach to the ultimate defense of the democratic rights of the people under menace from what they perceive as an unbearable tyranny.

MR. GARCIA. Because if we wish to explicitate the inherent right, then I would suggest that we approximate the Preamble of the Universal Declaration of Human Rights which precisely states that as a last resort, people can have the right to choose the viable means and objectives that they so desire to put an end to long-standing tyranny.

MR. OPLE. But is not that exactly what this proposes? I think there is a sense in which that request is already met by this paragraph as reformulated. This statement, which is a powerful statement of the ultimate defense of the people whose rights to a democratic government are under imminent peril, is also a strong warning to future tyrants that the systematic and habitual disregard of the constitution and the laws will bring him in confrontation with the legal capacity of the people to redress this wrong through nonviolent means. It may also help remind the people that they have this final reserve power other than the power to make laws on their own, through initiative, referendum and recall. Other than the power of initiative to amend and revise a constitution, they have this final fallback position in defense of their rights to a democratic government in the Declaration of Principles.

MR. SARMIENTO. Mr. Presiding Officer.

MR. GARCIA. Mr. Presiding Officer, in fact, if I have to answer this point, the response is that any kind of formulation in this regard would be imperfect. It would fall far short of any kind of inherent right of the people. But I have here with me an alternative formulation which, I think, Commissioner Azcuna had earlier drafted wherein it states the following: "That the State with its institutions belongs to the people. Whenever a government fails to serve the people, they may exercise their inalienable right to alter, reform or abolish it." By keeping silent on the means, I think we are far more faithful to the idea.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Garcia's time is up.

MR. GARCIA. Thank you.

MR. OPLE. May I just point out that this formulation just read by Commissioner Garcia was actually amalgamated into this final consensus draft to which Commissioners Azcuna and de los Reyes contributed a major part. I am afraid that we have to insist that the qualification through nonviolent means will have to remain in the text.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. In view of the many interpellators who would like to say something and ask for clarification, may we establish the following order of speakers: Commissioners Sarmiento, Padilla, Davide, Bennagen and Jamir.

I now request that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Sarmiento is recognized.

MR. SARMIENTO. Thank you, Mr. Presiding Officer.

While I agree that the people have the inherent right to change a government, I personally believe that we should have a clear provision on this point in the Constitution.

However, I have reservations with respect to the present formulation especially with the use of the words "through nonviolent means." May I briefly explain. The use of these words preclude the use of another mode of changing an existing despotic government. We all know that we have two modes of changing government. One, done violently; and the other, done nonviolently.

Our history is replete with our people's violent struggle against tyranny and despotism. We have the Philippine Revolution of 1896, we have our war against America, and that against Japan. These were not nonviolent means; these were violent means. But to use the words of Suarez, a scholastic philosopher, it was a revolution done in self-defense against an offensive violence committed against them.

The exclusion of the words "through nonviolent means" will not be peculiar in our Constitution. We have the Constitution of Turkey; we have the Constitution of El Salvador. The Constitution of Turkey is clear and it states,

> And having achieved the revolution of May 27, 1960 by exercising her right to resist a political power which has lost its legality through behavior and actions against the law contrary to the constitution.

I underscore the words "right to resist a political power."

Then, we have the Constitution of El Salvador which is very clear and I quote:

> The right of the people to insurrection is recognized. The exercise of this right shall in no case result in the abrogation of laws and shall be limited, in its effect, to the removal and so far as necessary of officials of the executive branch who shall be replaced in the manner established by the Constitution.

We have our very own philosopher, Apolinario Mabini, who advocated the use of force when necessary. He said that a ruler should be deposed when he usurps the power of the government and undermines the people's welfare. He argued that the revolution staged by the Filipinos against the American regime was just, because the Americans were tyrants and usurpers. And this was a violent revolution. He said that a people who resisted a tyrant did what was in consonance with both divine and human laws. And his position is supported by scholastics like St. Thomas Aquinas, John of Salisbury and Francis Suarez.

St. Thomas said that a tyrannical government is not just because it is directed not to the common good but to the private good of the ruler. Consequently, there is no sedition in disturbing a government of this kind unless indeed the tyrant's rule be disturbed so inordinately that the subject suffered greater harm from the consequent disturbance than from the tyranny of government.

MR. MAAMBONG. Mr. Presiding Officer, the time of the Gentleman has expired.

MR. SARMIENTO. My decision is that though I agree with that formulation, I would suggest that we delete the words "through nonviolent means" so as to include other modes of changing a government.

MR. MAAMBONG. Mr. Presiding Officer, before we recognize the next interpellator, we would just like to indicate that we are in the period of amendments. Since we are in the period of amendments, the proponent would expect amendments to his proposal or statements against the proposal. And if we are going to have interpellators who are going to speak against the proposal, we have a rule for that. We only have two, four or two against. And so I would suggest very strongly to the Members of the Commission that if they have any proposals in the form of amendment, they propose it to the proponent and if they would like to speak against or in favor, we are limited to two speakers each.

I ask that the Chair recognize the Vice-President.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Padilla is recognized.

MR. PADILLA. Will the proponent yield to a few questions?

MR. OPLE. Very gladly, Mr. Presiding Officer.

MR. PADILLA. Is this proposed section animated by the political miracle of February 1986?

MR. OPLE. Yes, although there are many sources of inspiration for this proposal. I think the dominant one is what happened in February in our own contemporary experience.

MR. PADILLA. What others say as an extraordinary political miracle. When this says "violation of the Constitution and the law," then says "nonviolent means," is not the judicial remedy to go to the Supreme Court for vindication of the right or a redress of the wrong?

MR. OPLE. Mr. Presiding Officer, this presupposes a situation where even the recourse of the courts may no longer be available as part of the systematic violation of the constitution and the law.

MR. PADILLA. This mentions redress. Does not the petition for redress of grievances start with the right to peaceful assembly?

MR. OPLE. In that narrower context of the redress of grievances, Mr. Presiding Officer, the Vice-President is correct. I believe that "redress" here is used in its generic meaning.

MR. PADILLA. Now with regard to the right to a democratic government, is not the popular will expressed in periodic elections through nonviolent means?

MR. OPLE. Yes, in normal times. I suppose this is correct, Mr. Presiding Officer, although I have pointed out a situation contemplated by this amendment wherein the people or most of them had already reached a point of alienation from the existing government to the point of desperation and, therefore, the ability to conduct the necessary clean and free elections may have already been greatly impaired by the existing situation.

MR. PADILLA. When the Gentleman mentions the moment or the point of desperation, then it becomes the inherent right of the sovereign people to change the government that does not serve their needs and that right may even include an armed public uprising or what is commonly known as rebellion.

MR. OPLE. Yes, Mr. Presiding Officer, the Vice-President is correct. But since this is an innovative undertaking to make explicit and articulate in the written Constitution the right of the people for ultimate self-defense, then we think that it should sanction only nonviolent means of securing that end; that is to say, securing their rights to a democratic government. I suppose that nothing in this paragraph prohibits the people from taking well-proportioned measures; that is to say, proportional to the threat and the tyranny. But any kind of employment of force will be in excess of the constitutional authority.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Padilla's time is up.

MR. BENGZON. Mr. Presiding Officer.

MR. PADILLA. May I just say one sentence only.

THE PRESIDING OFFICER (Mr. Treñas). Let us finish with Vice-President Padilla.

MR. PADILLA. In the U.S. Declaration of Independence, the right of the sovereign people to change their government is recognized. But that is not found in the U.S. Constitution, and so I believe that there is no need for this section in our Constitution.

Thank you.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bengzon is recognized.

MR. BENGZON. I was going to raise a point of order, and request the Presiding Officer to enforce Section 26 of our Rules. We are now in the period of amendments; we are no longer in the period of interpellations and under our Rules, the proponent has five minutes. Under the suppletory rules, Rules of the Batasan, there will be two speakers in favor of the amendment and two speakers against. I think we have already heard Commissioners Garcia and de Castro who spoke against by way of interpellation.

MR. OPLE. Correction, please, Mr. Presiding Officer. Commissioner de Castro did not speak against.

MR. BENGZON. So, it seems to me, Mr. Presiding Officer, that only two speakers in favor are entitled to speak at this moment.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Davide.

MR. DAVIDE. May I just comment on that point of order?

Even in the period of amendments, the proponent of the amendment may be interpellated. What the Rules stipulate is, it would limit the number of people or Commissioners who can speak against a particular amendment. But there is no rule limiting the number of Commissioners who can interpellate a proponent of a measure.

THE PRESIDING OFFICER (Mr. Treñas). What does Commissioner Bengzon say?

MR. BENGZON. Insofar as that is concerned, precisely, we have to go through the period of sponsorship and debate and interpellations before we go into the period of amendments. So, all interpellations should be during this period of interpellations and debates. During the period of amendents, we have the amendments and the proponents will certainly articulate on their amendments together with two others who will speak in his favor and two others against. And that is the rule which is very clear and it is subject to a five-minute rule for each speaker.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. We are now in the period of amendments for the entire committee report. And so, any Member may stand to propose amendments and the other Members are entitled to interpellate the proponent of a particular amendment. To that there is no limitation. But as to those who will speak against a particular amendment, not merely interpellate, it may be limited to two, according to the Rules.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, we just want to clarify the situation. I have to agree with Commissioner Davide when he said that if a Member proposes an amendment, he has five minutes to explain that amendment. That is the five-minute rule. And I would like to support that with this interpretation in the *Jefferson's Manual and Rules of the House of Representatives.* It says:

> General debate and amendment under the five-minute rule – . . . any member shall be allowed five minutes to explain any amendment he may offer, after which the

> Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment . . .

That is the rule, Mr. Presiding Officer. But the problem is, there are interpellators who stand up, they are not proposing amendments. They are only speaking for or against. And in that context, the honorable chairman of the Steering Committee is correct. And Commissioner Davide is also correct, that if the Member will just stand up and speak for or against without proposing any amendment, then we are limited to two on one side and two on the other. So I am proposing, Mr. Presiding Officer, as I have proposed earlier, that if anybody should stand up, please propose an amendment so that he will be entitled to five minutes. If he does not propose an amendment, then he may have exceeded the number of Members who are speaking for or against.

That is just a clarification, Mr. Presiding Officer.

MR. BENGZON. All I am asking, Mr. Presiding Officer, is that we enforce the Rules with respect to amendments. And we are in the period of amendments; Commissioner Ople has presented an amendment, then let us have the debates – two for and two against; then we vote.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, since we have clarified the situation to all the Members, may we now call on Commissioner Davide to present his amendment.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Davide is recognized.

MR. DAVIDE. I will speak against instead of propose an amendment. I am against the proposal for the following reasons: First, it is unnecessary, superfluous; second, it is not only restrictive but very, very restrictive. It is superfluous because this is already covered precisely by Section 1 of the Article on the Declaration of Principles which states:

> The Philippines is a democratic and republic State. Sovereignty resides in the people and all government authority emanates from them.

That is already the meat of the authority of the people to change government, if that particular government no longer carries the consent of the people.

Secondly, the provision here states:

> When government systematically violates the Constitution and the laws, it forfeits its authority and the people may take steps to redress this fundamental wrong.

What is the fundamental wrong referred to? It is not the government; it is the systematic violation of the constitution and the laws. Necessarily, we do not have to replace the government, but merely correct or make certain redresses against the violation or the laws. We have the judiciary to take care of that.

It is very, very restrictive because it would now limit the right of the people to change that particular government through nonviolent means and, secondly, only when the violation is systematic. In other words, if the violation is not systematic, the people cannot even change the government even by nonviolent means.

And so, we prevent the people, precisely, to change that particular government, despite the fact that all government authority emanates from them. That would be the effect of this proposal. It is very, very restrictive. It would, in effect, prevent the people from exercising its authority to seek redress even for a nonsystematic violation of the constitution and the laws. Thus, an approval of this would be dangerous.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, the Acting Floor Leader has a situation in his hands. There are already four Members who spoke against, in violation of the Rules. It was not the fault of the Chair; it was the fault of the Acting Floor Leader. He could not anticipate whether the Member who stood up was going to propose amendments or he was going to speak in favor or against. But that is the situation, Mr. Presiding Officer. Four has spoken against. The Acting Floor Leader can no longer allow anybody to speak against because it is already in excess of two.

May we now recognize Commissioner Guingona as the first speaker who will speak in favor of the amendment.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Guingona is recognized.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Davide.

MR. DAVIDE. I think I will have to raise a point of order. This is now the *turno en contra* because we were allowed to speak against. In other words, it presupposes that those who were in favor had foreclosed the right to sponsor. If we have to be very very technical about it, this is now the *turno en contra,* this is not the *turno* for the proposal. I was recognized to speak *en contra,* so anyone to be recognized after me will have to be also for the *turno en contra.*

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). What does the Acting Floor Leader say?

MR. MAAMBONG. Mr. Presiding Officer, this is now a little bit nit-picking on the Rules. The instruction of our President has always been to liberalize the Rules as much as possible, if it can at all be done, so I would ask from Commissioner Davide to please withdraw his objection so that we can proceed further. At any rate, I recommend that two will be made to speak in favor since four has already spoken against. I am asking Commissioner Davide to please, in the spirit of liberality, withdraw his motion for reconsideration.

MR. OPLE. Point of inquiry, Mr. Presiding Officer, before Commissioner Davide takes the floor. May I find out if an act of great consideration to colleagues on the opposite side of an argument in accordance with which the sponsors kept silent throughout the exchanges, be considered a forfeiture of the right of the sponsors to speak on behalf of their proposal after an act of self-abnegation? Is this what they deserve, to lose their right to speak on behalf of their proposal?

Thank you, Mr. Presiding Officer.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Just a minute. To straighten out the records, what does Commissioner Davide say about the request of the Acting Floor Leader?

MR. DAVIDE. Mr. Presiding Officer, I was just of the impression that the Commission wanted really to be very, very strict about the Rules. There was even an unfortunate termination of the period of interpellations, so I also wanted to apply the Rules strictly insofar as the *turno en contra* is concerned, which is where we are now. However, I am willing to withdraw the objection I raised in interest of a further discussion on a very transcendental issue.

THE PRESIDING OFFICER (Mr. Treñas). Thank you; the objection has been withdrawn.

MR. MAAMBONG. Mr. Presiding Officer, I would like to indicate my thanks to my colleague from Cebu, and he has the assurance of my vote when he runs for the Senate.

MR. GUINGONA. May I just make one observation before I make my remarks, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Guingona may proceed.

MR. GUINGONA. As indicated by the Acting Floor Leader himself that he did not know that the persons who spoke were to speak *en contra,* we ourselves were not in a position to anticipate that they were to speak *en contra.*

I would like to say, Mr. Presiding Officer, that I am in favor of this proposed amendment in its entirety which means that I would favor the inclusion of the words "through nonviolent means." As stated by the principal proponent, this would not preclude the right of the people, as a last resort, to take up arms. According to the honorable Commissioners, who expressed their reservations, this is an inherent right which means that it is a right which can be exercised with or without constitutional approval. But we are putting here "through nonviolent means" because we want to emphasize that given the choice, the people should opt for nonviolent means. In other words, the armed revolts come as a final resort. I agree that there is this inherent right to take up arms but also contend that such a sense should not be attached to a constitutional provision because violent revolution connotes an act committed beyond the context or framework of law. And as former Chief Justice Concepcion said, the Constitution is a document that enshrines the rule of law. Therefore, any allusion to the right of violence or armed rebellion, even not expressly, would be inconsistent with the concept of the constitution being a document that enshrines the rule of law. The people may have the right to take up arms but such rights should not be extended recognition especially in the constitution.

Thus, a person may have the right to kill in self-defense, but it would not be proper to include it in enumerating his rights. It might only encourage people to kill in alleged self-defense, in the same manner that people power might turn out to be mob rule when the people are encouraged to take up arms against the lawfully instituted government on the pretext that the conditions enumerated in this proposed section or this proposed amendment allegedly exist.

And may I close, Mr. Presiding Officer, by quoting Chief Justice John Marshall of the United States. When speaking of a constitution, he says: "The language of a constitution is the language of restraint, not coercion." And if I may paraphrase Chief Justice Marshall, I say that the language of our constitution should be a language of restraint not a language of violence.

Thank you.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, since nobody has registered to speak in favor, may we now recognize the Members who will propose amendments to the proposal of Commissioners Ople and others. And in the spirit of the liberality of the Rules, I ask that the Chair allow the Members, who will propose amendments, to address some preliminary questions to the proponents of the amendment before they actually propose their own amendments.

I ask that Commissioner Bennagen be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Gentleman has three minutes.

MR. BENNAGEN. I would like to ask the proponent a few questions first.

As formulated, is the contemplation here merely a political revolution in terms of changing a regime and not in terms of changing social structures since it is very clear that the people may take steps to redress only when a government systematically violates the constitution and the laws?

MR. OPLE. Mr. Presiding Officer, the amendment here contemplates a situation where a virtual breakdown of the constitution and the laws has already taken place and, therefore, even access to the courts and access to the people through normal elections have already been blocked. In such a situation a peaceful political revolution falls within the purview of this constitutional authority.

MR. BENNAGEN. With the emphasis on nonviolent means, is the contemplation here to constitutionalize a philosophy of pacifism to the exclusion of other options when the conditions so require?

MR. OPLE. Pacifism is really passive noninvolvement and refuge in, let us say, evasion of a crisis that has arisen. This is not a commitment to pacifism, Mr. Presiding Officer, because nonviolent means can be a very vigorous and extremely aggressive activity on the part of the people. Where it stops, however, is in granting explicit constitutional authority to the use of violence.

MR. BENNAGEN. Thank you, Mr. Presiding Officer. I have no amendment to make.

MR. MAAMBONG. I ask that Commissioner Jamir be recognized.

Commissioner Jamir has no amendment to present. I ask that Commissioner Abubakar be recognized for a possible amendment.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Abubakar is recognized.

MR. ABUBAKAR. We have listened to the brilliant speeches and remarks of every Commissioner for or against. But I believe, while we are drafting the Constitution for the people on this particular provision, the people must give the final answer.

Will it not be objectionable on the part of the proponents if we just eliminate in this section the phrase, "through non-violent means" and put a period (.) after "government"?

MR. OPLE. I am under a mandate from several Commissioners who collaborated in this draft, to preserve the phrase "through nonviolent means." Until I am released from these instructions, I am afraid, Mr. Presiding Officer, that I cannot oblige Commissioner Abubakar, I mean his request for the deletion of "through non-violent means."

MR. MAAMBONG. Mr. Presiding Officer, may we know from Commissioner Abubakar if he is insisting on his amendment to delete the words "through non-violent means," so that we can put it to a vote?

THE PRESIDING OFFICER (Mr. Treñas). What does Commissioner Abubakar say?

MR. ABUBAKAR. In order to avoid a prolonged debate and let the future government decide the course of action they will take with respect to this particular problem, will the proponent, as well as those who are against it, agree to eliminate the whole provision and let the people decide what means they would like to take?

MR. OPLE. Commissioner Abubakar is reiterating some previous remarks already made by Commissioner Davide and a few others, to which I hope I will be allowed to make a brief reply towards the end of this period of amendments, Mr. Presiding Officer.

MR. ABUBAKAR. Does he not believe in the maxim, "the voice of the people is the voice of God"?

MR. OPLE. Although this phrase has lately been strongly belabored, it does not diminish its relevance, Mr. Presiding Officer. I do subscribe to that.

MR. ABUBAKAR. If the Gentleman subscribes, then the elimination of this whole provision from the constitution will be in order at any time an appropriate situation arises. Let the people state and decide the course of action.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Abubakar's time is up.

MR. OPLE. Mr. Presiding Officer, just to acknowledge the point made by Commissioner Abubakar and earlier by Commissioner Davide, the general principle of sovereignty residing in the people is established in Section 1. But in this Section 23, we are putting it to its ultimate test. And that is the reason why a number of

Commissioners confess a certain alarm, because we are putting the theory, the principle of popular sovereignty to a test in an extreme situation. Then the final reserve of the people's sovereignty is in the people themselves and when confronted with this test it will be assorted to redress a fundamental wrong and assert the right to a democratic government.

MR. MAAMBONG. I ask that Commissioner Rigos be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rigos is recognized.

REV. RIGOS. Mr. Presiding Officer, my questions have been answered.

MR. MAAMBONG. In that case, Mr. Presiding Officer, just to formalize it; this amendment to Section 23 has been presented originally by Commissioner Azcuna. May we ask the committee if this amendment being sponsored by Commissioner Ople is accepted by the committee?

MR. TINGSON. Mr. Presiding Officer, the committee members are divided on this issue, that is why we want to throw it to the body.

MR. MAAMBONG. With the indulgence of the chairman of the committee, I will now read the proposed amendment so that we can put it to a vote.

Section 23, originally Section 26, as proposed, reads as follows: "WHEN GOVERNMENT SYSTEMATICALLY VIOLATES THE CONSTITUTION AND THE LAWS, IT FORFEITS ITS AUTHORITY, AND THE PEOPLE MAY TAKE STEPS TO REDRESS THIS FUNDAMENTAL WRONG AND ASSERT THE RIGHT TO A DEMOCRATIC GOVERNMENT THROUGH NONVIOLENT MEANS."

I ask that this now be put to a vote, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer, before we vote, may I have one statement?

THE PRESIDING OFFICER (Mr. Treñas). What is the pleasure of Commissioner de Castro?

MR. DE CASTRO. I join Commissioner Davide in deleting this section because this can be carried through initiative and recall which we have in the Constitution.

Exactly one sentence, thank you, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Treñas). We will proceed with the voting.

As many as are in favor, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

The results show 11 votes in favor and 22 against; the amendment is lost.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. With the indulgence of Commissioner Garcia who would have wanted very much that we take up Section 24, now Section 21, on the grant of asylum to foreigners, we will instead take up Section 27, now Section 23, on the separation of the Church and State.

I ask that the chairman of the committee be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

MR. TINGSON. I feel we can really abbreviate our session and adjourn reasonably at an early time tonight because in the last section of our original committee report – the separation of Church and State – according to my record here, only Commissioner Bacani has a proposed amendment. But he told me personally that he will not even insist on his amendment. So I ask that we recognize Commissioner Bacani.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bacani is recognized.

BISHOP BACANI. Mr. Presiding Officer, after talking with some people, perhaps, I will insist on at least one sentence of the amendment. I have here the amendment on a sheet of paper and it says: "WHILE THE SEPARATION OF CHURCH AND STATE SHALL BE MAINTAINED, THE STATE SEEKS THE COLLABORATION OF THE CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE TOTAL WELL-BEING OF ITS CITIZENS AND ACKNOWLEDGES THE RIGHT OF CHURCHES AND RELIGIOUS BODIES TO COMMENT ON GOVERNMENT POLICIES AND ACTUATIONS."

The reasons for my amendment are the following: First, I think it is necessary that the Church and State should maintain independence of each other, otherwise, there will be chaos in the nation or it will be to the detriment of the citizens. Second, it is necessary that the Church and State should collaborate towards the achievement of the total well-being of the citizens of our country.

I was studying the constitutions of several countries and I looked up 135 constitutions. And of the 135 constitutions, I noticed that only eight of them had explicit provisions on the separation of Church and State. Two of them have something like that in substance. Of the eight, seven are communist countries. Hence, I would like to ask that we balance that statement of the separation of Church and State with a corresponding truth and, that is, the State seeks or welcomes the collaboration of the churches and religious bodies to promote the total well-being of its citizens.

Those are the reasons for the amendment, Mr. Presiding Officer.

MR. RODRIGO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rodrigo is recognized.

MR. RODRIGO. I would like to propose an amendment to the amendment. Instead of starting the section with the word "while," it should read as follows: "THE SEPARATION OF CHURCH AND STATE SHALL BE MAINTAINED. THE STATE, HOWEVER, WELCOMES THE HELP AND COLLABORATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS." And delete the rest.

MR. MAAMBONG. Mr. Presiding Officer.

MR. ABUBAKAR. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Before we act on the proposed amendment to the amendment of Commissioner Rodrigo, for purposes of orderly procedure, we would like to ask Commissioner Bacani first to really concretize the proposed amendment because the Members of the Commission did not get it very well. Is the amendment after the word "inviolable," Mr. Presiding Officer?

BISHOP BACANI. Yes.

MR. MAAMBONG. So that the committee can reply, how will the amendment now read? Then, we will proceed to Commissioner Rodrigo's amendment.

BISHOP BACANI. Yes. It is an amendment by substitution and this is what I mean when I said I would like to retain at least one sentence of that amendment, the one proposed by Commissioner Rodrigo, so there will be two sentences: "THE SEPARATION OF CHURCH AND STATE SHALL BE MAINTAINED. THE STATE, HOWEVER, WELCOMES THE HELP AND COLLABORATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS."

MR. ABUBAKAR. Mr. Presiding Officer.

MR. MAAMBONG. Can we have it again, Mr. Presiding Officer?

MR. RODRIGO. It reads: "THE SEPARATION OF CHURCH AND STATE SHALL BE MAINTAINED. THE STATE, HOWEVER, WELCOMES THE HELP AND COLLABORATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS."

MR. MAAMBONG. Mr. Presiding Officer, may we ask the response of the committee to the proposed amendment?

THE PRESIDING OFFICER (Mr. Treñas). What does the committee say?

MR. AZCUNA. The committee insists on its present wording, Mr. Presiding Officer, and regrets that we cannot accept any further amendments thereto.

MR. MAAMBONG. Mr. Presiding Officer, we would like to know from the proponents, Commissioners Bacani and Rodrigo, if they are insisting on their amendments?

BISHOP BACANI. Yes, at least up to the amendment that is proposed by Commissioner Rodrigo. We will notice that in the eight constitutions that contain the separation of Church and State, nowhere is it put as starkly as that – that the separation of Church and State is inviolable.

MR. MAAMBONG. May we ask that Commissioner Bernas be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bernas is recognized.

FR. BERNAS. Mr. Presiding Officer, I would like to speak against the amendment.

We already have two provisions touching on the separation of Church and State in the Constitution; one, the provision on nonestablishment in the Bill of Rights; and second, this provision proposed by the committee which is a copy of what was approved under the 1973 Constitution. Both these existing provisions have a long history of jurisprudence and it is one provision in the Constitution which, in fact, is very rich in jurisprudence. And one of the things about the relation between Church and State is that it is a dynamic and changing relationship. The relationship between the Church and State throughout history has changed due to the development of the State's and the Church's self-understanding of itself. It is a very delicate relationship, and it is always a question of trying to balance the value which "separation" stands for and the value which "religious liberty" stands for.

The Constitution mentions religion twice – the freedom of religion and the nonestablishment of religion. They are not exactly the same concepts. They are distinct rights and sometimes they are in opposition to each other. There are times when insistence on separation of Church and State may trench on freedom of religion and the delicate task of balancing this is best done in the context of concrete cases.

I am afraid that this amendment, when it says that it welcomes the collaboration of churches and religious bodies to promote the total well-being of its citizens, is an invitation to entanglement of religion with the State. We do not need such invitation. We would much rather see the cooperation between the Church and the State grow dynamically without encouragement from anybody because, as I said, there is always the danger that the Church will try to impose itself on the State or else there may also be the danger that the State will try to impose itself on the Church. So rather than open the gate towards inviting greater entanglement between State and religion, I would advocate that we leave the constitutional provision as it is because all that is stated here can be done under existing provisions. But there may be moments when what is called "collaboration" is, in fact, interference. So let us just be silent about this and leave the development of the relation between Church and State to a case in law, where positions are argued in the light of actual circumstances. So, for that reason, because of the fact that this is a very delicate matter, the less there is said about the relationship between the Church and State, the safer it would be for our nation.

Thank you, Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Considering that Commissioner Bernas is not proposing any amendment, the floor takes it that that was an argument against the proposed amendment. I ask that Commissioner Tingson of the committee be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

MR. TINGSON. Mr. Presiding Officer, if only to enrich the record of our deliberation on this particular article, may I state to begin with that our very own forefathers, so to speak, in Article V, Title 3 of Religion of the Malolos Constitution, opted to state the following:

> The State recognizes the freedom and equality of religious worship as well as the separation of the Church and the State.

I suppose Apolinario Mabini had something to do with this because he was one of the formulators of the Malolos Constitution. May I continue to state, Mr. Presiding Officer, that since that time, centuries ago, when all the civilized world had found a very pressing and compelling reason to enshrine in its laws the principle of the separation of Church and State, we have improved a great deal in our understanding of that principle. So much so that even in the face of a widespread awakening in our churches to the socioeconomic and political realities, a phenomenon only of recent years here and abroad, we have not witnessed the resurgence of that discredited tendency for the Church or the State to take over the prerogatives of the other, excepting only in countries where these realities are much too harsh so as to engender a revolutionary atmosphere.

By and large, the democracies of the free world have kept close to the time-honored principle of the separation of Church and State. Nonetheless, we find it to be essential to reiterate this principle in the basic law because its absence could very well invite dire possibilities in the future.

Someone once said that "man is precariously civilized." We are all witnesses to the kinship of Abel and Cain in each individual, and we might sometimes wonder how thin the ice of civilized life is.

As late as 1960, the former President of the United States, John F. Kennedy, once again had to remind Americans that the principle of the separation of Church and State existed and remains inviolable. The number of years that we have spent observing it, therefore, is no guarantee of its inviolability.

Mr. Presiding Officer, religion is a pervasive and overwhelming fact of our national existence. While we do not entertain the notion of ever regulating the observance of religion, let us make sure that religion, encompassing as it does large segments of our society, does not unduly influence the formulation and implementation of state policies.

It is a historical fallacy to attribute to the Churches an intrinsic desire to override government in its functions. Rather, the historical action had been one of evolution, from the former state of fusion to one of present-day separation. I should like to believe that old societies had found it necessary, even beneficial, to fuse the functions of governing them with the observances and rituals as these were carried out by religious leaders. Abraham, Moses, and many of the latter prophets were secular leaders of the Israelites as much as they were the religious leaders of their people.

But then, Mr. Presiding Officer, it was conceived that an individual might be free in his worship, or even in the absence of it. The imperatives of conquest brought within national boundaries a divergence of religious views. It was likewise reasoned that a government might allow the free exercise of whatever religious beliefs on condition that the government retains the basic attributes to its existence and effectiveness. But the winds of freedom, more than anything else, the spirit of democracy as we believe it to be today, have won for religion and government a new pair of eyes with which to perceive each other with understanding and tolerance.

But how will these two distinguishable but permanent institutions live alongside each other? Shall one regulate the other? Shall the other subserve the former? Obviously, our own great minds of the past have found a solution to this. That is the reason why the separation of Church and State has long been established and enjoys a respectable place in our heritage.

Finally, Mr. Presiding Officer, the formula was and has always been to put space between Church and government — how well do I remember the debates we had on the floor of the Constitutional Convention of 1971 at the Fiesta Pavilion of Manila Hotel — a space and a respectful distance between the two. For religion, whatever it might be, to flourish in our society, has observed this principle. Because the space provided for itself in the sphere of spiritual influence is wide and broad enough that it need not aspire to control the political sphere as well as in order to fulfill itself.

Our overriding concern, therefore, can only be this: The Church or the State can destroy itself by interfering with the business of the other. We need a government to referee our conflicting aspirations, to guide us and to give us direction. We need, Mr. Presiding Officer, religion also for many reasons, but above all, to carry us above the mundane realities where the government cannot. It seems to me, as expressed by Commissioner Bernas, that the time-honored phrase "the separation of Church and State" does not certainly mean enmity between the State and the Church. Rather it means truly a friendly cooperation on the morality side and, although they are collaborating to that effect, it is best, however, that the principle separating them is best recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson's time is up.

MR. TINGSON. Thank you, Mr. Presiding Officer.

REV. RIGOS. Mr. Presiding Officer.

MR. ABUBAKAR. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, there are two Gentlemen who are standing up: Commissioners Abubakar and Rigos. May I ask if they are speaking for or against so that we can have an orderly procedure.

I ask that Commissioner Rigos be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rigos is recognized.

REV. RIGOS. I understand, Mr. Presiding Officer, that Commissioners Bacani and Rodrigo are not against the separation of Church and State.

BISHOP BACANI. That is true, Mr. Presiding Officer.

REV. RIGOS. So that is not debatable. What they propose is to add another sentence to the one suggested by the committee. So my suggestion is that we first vote on this sentence recommended by the committee, and then later on vote on their amendment.

MR. MAAMBONG. Mr. Presiding Officer, I would like to agree, but the problem is that even the first sentence has been amended because the original formulation is "The separation of Church and State shall be inviolable," while the proposal is "The separation of Church and State shall be MAINTAINED."

I now ask for the recognition of Commissioner Aquino who will speak against.

THE PRESIDING OFFICER (Mr. Treñas). Before the Commissioner speaks, the Chair desires that we comply as much as possible with the Rules to shorten our proceedings, and, therefore, if anyone desires to speak, please register with the Acting Floor Leader.

Commissioner Aquino is recognized.

MS. AQUINO. Mr. Presiding Officer, I speak against the proposal to introduce amendments to the committee report on the separation of Church and State.

As articulated by Commissioner Bernas, the religion clauses in all of the constitutions that carry it are constantly in tension, such that in the interpretation of this provision, and whenever there is any problem that arises from the religion clauses, almost everytime there is a requirement of the best possible efforts to accommodate according to the settled usage in law and in jurisprudence. And if only to assuage the fears of some of the Commissioners, freedom of religion does not mean a license to disregard the command of the sovereign State. Neither does the de-establishment clause mean total abstention of the State from the regular mode of support or even donation to some of the Church institutions.

In fact, the jurisprudence would state, in the United States and in some Western countries, that they have staked the existence of the State on the faith that the separation of Church and State is good both for the State and for the Church. Jurisprudence is very consistent in being zealously watchful against the fusion of secular establishments with sectarian institutions. As the metaphor goes, "there is a wall of separation" between the Church and the State, not just a fine line that will be overstepped whenever necessary. And it appears to be justified because as we all know, a good fence actually creates good neighbors.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, nobody has registered to speak against the amendment; however, Commissioner Abubakar wants to make it of record that he is against the amendment.

Mr. Presiding Officer, before we put the matter to a vote, may we ask Commissioner Bacani to say a few words.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bacani is recognized.

BISHOP BACANI. Mr. Presiding Officer, two points have been made here. First, the necessity to uphold the "separation of the Church and the State" which is affirmed by the amendment. That is not contested. Let me make that as clear as possible.

The second point raised by Commissioner Bernas is this : that we should maintain a balance. And, precisely, the purpose of this amendment is not to negate the separation of Church and State, but to redress an imbalance. What is that imbalance?

We are church people – I am a churchman. During the martial law regime, we had to be critical of the regime, and it was not an uncommon experience that the separation of Church and State was invoked. It is sometimes invoked against the prophetic ministry of the Church.

In fact, President Marcos, in the Iglesia ni Cristo compound, accused churchmen of violating the separation of Church and State when they were only exercising their prophetic function. And if we leave it that way, "the separation of Church and State shall be inviolable," it may not be a balanced statement.

Commissioner Bernas, himself, said in a letter to Delegate Greg Tingson of the 1971 Constitutional Convention, and I quote: "according to Wilfred Parson, the phrase does not have any meaning at all. And because of this, it can be made to suit everything. Everyone wants it to suit his purpose."

So, the intention is not to deny nor to eliminate the constitutional provision. In fact, it says: "The separation of church and state shall be MAINTAINED." What we are asking for only is that the church will welcome this cooperational collaboration which is the explanation to me of Commissioner Rodrigo. That is why I agreed to the deletion of the word "inviolable," as this includes the right of these churches to exercise prophetic criticism, which is another form of cooperation, for the well-being of the people.

So I think that should be made clear. The two points are saved. And let me ask this as a final point. Will Commissioner Nolledo tell us the background of the 1973 provision alone? It seems it was Marcos who wanted it in after a *disgusto* with the Catholic hierarchy.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

REV. RIGOS. Point of inquiry, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, please proceed.

REV. RIGOS. Are we talking about the "separation of Church and State" or the changing of the word "inviolable" to "MAINTAIN"? I think that is the proposed amendment.

BISHOP BACANI. Yes, that is the one. I am not hard and fast on that. I can yield on that "inviolable" thing.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Mr. Presiding Officer, I would like to clarify the situation. The proposed amendment is actually an amendment by substitution. The original formulation reads: "The separation of the Church and State shall be inviolable." The present proposed amendment changed the word "inviolable" to "MAINTAIN" and added another sentence. We are now prepared to put this to a vote, Mr. Presiding Officer.

FR. BERNAS. Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bernas is recognized.

FR. BERNAS. My name was mentioned. What I am opposing is not the separation of Church and State. It is true, I maintain, that is a legal statement. The sentence "The separation of Church and State is inviolable," is almost a useless statement; but at the same time it is a harmless statement. Hence, I am willing to tolerate it there, because, in the end, if we look at the jurisprudence on the Church and State, arguments are based not on the statement of separation of Church and State but on the nonestablishment clause in Section 8 of the Bill of Rights. What I am against is the explicit invitation for cooperation because it is opening up entanglement between the state and religion. The moment we allow this entanglement, this can be an opening for fanatics who want to reform a State to try to dictate their own will on the State.

This is my whole point and I do not want to give this opening. There are concrete problems. We had concrete problems during the time of President Marcos and there were attempts to use the doctrine of the separation of Church and State against the church. Marcos was wrong. The fact that he tried to do it does not deny the validity of the separation of Church and State. What I just want to avoid is this invitation to entanglement.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. We are through with speeches against and in favor; we are through with the amendments; the proponent has already made the closing statement. I do not know why we cannot vote at this point in time, but if there are any further clarifications from the body, we will leave it to the discretion of the Chair to recognize.

BISHOP BACANI. Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, may I say a few words in support of the Bacani proposal on condition that the word "collaboration" be changed to "COOPERATION."

I think Commissioner Bacani is willing to accept that amendment because "collaboration" will really lead to entanglement contemplated by Commissioner Bernas. I would like to confirm the statement of Commissioner Bacani that this provision was inserted through some sort of intervention on the part of Mr. Marcos, who was alarmed by the opposition against his regime by certain sectors of religion, basically from the Roman Catholic Church and certain protestant ministers. I gathered this from statements of people who were close to the former President. I believe that the Bacani proposal, on condition that "collaboration" is changed to "COOPERATION," will make the provision on Church and State separation attuned to realities. According to Commissioner Bernas in his position paper submitted to the 1971 Constitutional Convention, he observed that the prohibition of an establishment of religion should not, therefore, be based on complete separation of Church and State which is maybe a modern slogan, but misleading.

Thank you, Mr. Presiding Officer.

MS. ROSARIO BRAID. Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). The Acting Floor Leader is recognized.

MR. MAAMBONG. Does the proponent accept the amendment of Commissioner Nolledo to change the word "collaboration" to "COOPERATION"?

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Rodrigo is recognized.

MR. RODRIGO. I am the proponent of that amendment to the amendment. Yes, Mr. Presiding Officer, I accept. Therefore, we change "collaboration" to "COOPERATION." In that case, the words "help and collaboration" shall be deleted because "help" is just the same as the word "cooperation." So that it will now read: "The separation of Church and State shall be inviolable. THE STATE, HOWEVER, WELCOMES THE COOPERATION OF CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS."

MR. MAAMBONG. Mr. Presiding Officer, may we know the reaction of the committee, considering that there has been a substantial amendment to the proposed amendment.

MS. AQUINO. The committee regrets that we cannot accept the amendment and we will insist on our formulation; that is, "The separation of Church and State shall be inviolable."

MR. MAAMBONG. Since the committee is not acceptable to the amendment, may I suggest, Mr. Presiding Officer, that we vote on the two sentences separately.

REV. RIGOS. That was my suggestion a while ago, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). We shall now vote separately on the two sentences.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Davide.

MR. DAVIDE. I do not think that the first sentence should be taken as part of the proposed Bacani amendment, because that is the original wording of the committee report. So may I propose that what is to be voted upon will only be the second sentence because the first sentence may still be subject to amendments, it being an original committee wording.

MR. MAAMBONG. Mr. Presiding Officer, I agree with Commissioner Davide. We should not vote at the moment on the first sentence because that is the original formulation of the committee. We will take it to mean that the amendment is only by addition of the second sentence.

We will now put this to a vote, Mr. Presiding Officer.

MR. TINGSON. Can we make it clear, please, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Treñas) Will the Acting Floor Leader read the amendment?

MR. MAAMBONG. It will read as follows: "THE STATE, HOWEVER, WELCOMES THE COOPERATION OF THE CHURCHES AND RELIGIOUS BODIES TO PROMOTE THE WELL-BEING OF ITS CITIZENS."

I ask that this be put to a vote, Mr. Presiding Officer.

MR. TINGSON. But the first sentence, "the separation of Church and State shall be inviolable," is not being voted upon now, Mr. Presiding Officer?

MR. MAAMBONG. It is not being voted upon. That is part of the committee report.

MR. ABUBAKAR. Mr. Presiding Officer.

MR. MAAMBONG. Will the Gentleman please use the microphone so that everybody can hear.

THE PRESIDING OFFICER (Mr. Treñas). Will the Gentleman please use the microphone so that his statements can be properly recorded.

MR. ABUBAKAR. May I ask the Gentleman who proposed the amendment to include in his enumeration the cause of the five million Muslims, our Filipino brothers in the South, who pray in mosques, in addition to churches and religious groups. "MOSQUE" should be included.

BISHOP BACANI. Mr. Presiding Officer, that is why "religious bodies" is used, not only "churches" but "religious bodies," precisely to include the Muslims and other religious groups.

MR. ABUBAKAR. No, because the Muslims worship in a separate institutional structure just as the Christians worship in the church. If we close with the "church," which is the Christian place of worship, we will denigrate the Muslims by not including them in the religious bodies. Why not say the "church, MOSQUE, and other religious bodies"?

BISHOP BACANI. Mr. Presiding Officer, I understand in the formulation of the Constitution, the church here does not mean the place of worship but the church as an institution or as a group of people. And so "religious bodies" should be the corresponding term and not the "MOSQUE".

MR. BENGZON. Mr. Presiding Officer.

MR. ABUBAKAR. No, if we say "religious bodies," the Muslim would not understand us. This Constitution is for the Christians, the nonbelievers, the Protestants, the Muslims, and all Filipinos regardless of faith. If we, therefore, mention the church as a place of worship, why can we not include the mosque?

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Bengzon is recognized.

MR. BENGZON. I am raising a point of order. There is a motion on the table which we must act upon. And the motion is to vote on the amendment of Commissioner Bacani. I ask the Chair to please call for a vote.

THE PRESIDING OFFICER (Mr. Treñas). Let us proceed with the voting.

MR. MAAMBONG. Commissioner Abubakar has already indicated that he is against the proposed amendment. May I ask that his statement be noted so that it will be considered in the process of voting, and now I ask for a vote.

MR. ABUBAKAR. I am not against the amendment, I am only against the noninclusion of what I was proposing.

VOTING

THE PRESIDING OFFICER (Mr. Treñas). We are now in the process of voting. We shall proceed. The Chair will not entertain any Commissioner anymore.

As many as are in favor, please raise their hand. *(Few Members raised their hand.)*

As many as are against, please raise their hand. *(Several Members raised their hand.)*

As many as are abstaining, please raise their hand. *(Two Members raised their hand.)*

The results show 6 votes in favor, 26 against and 2 abstentions; the amendment is lost.

MR. MAAMBONG. Mr. Presiding Officer, I now ask for a vote on the original formulation of Section 27, now renumbered as Section 23, which reads: "The separation of Church and State shall be inviolable"

VOTING

THE PRESIDING OFFICER (Mr. Treñas). As many as are in favor, please raise their hand. *(Several Members raised their hand.)*

As many as are against, please raise their hand. *(No Member raised his hand.)*

The results show 36 votes in favor and none against; Section 27, now Section 23, is approved.

MR. TINGSON. Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer, I now ask that the chairman of the committee be recognized.

THE PRESIDING OFFICER (Mr. Treñas). Commissioner Tingson is recognized.

ADJOURNMENT OF SESSION

MR. TINGSON. Mr. Presiding Officer, although we have finally finished the original draft of the committee, there are still five amendments or additional paragraphs. I suggest that we adjourn for the day.

MR. MAAMBONG. In view of the manifestation of the chairman of the committee, I move that the session be adjourned until tomorrow at nine-thirty in the morning.

THE PRESIDING OFFICER (Mr. Treñas). Is there any objection? *(Silence)* The Chair hears none; the session is adjourned until nine-thirty in the morning.

It was 7:07 p.m.

APPENDICES

ON THE AMERICAN MILITARY BASES
By Commissioner Teodulo C. Natividad

Kung iisipin, nasabi ng lahat ng nauna sa akin ang matuwid at saligan ng sang-ayon at maging ng tutol sa pamamalagi pa rito ng mga himpilang hukbo ng Amerikano. Gayunman, magiging malaking pagkukulang ko sa tungkulin ko bilang Komisyonado ng mabunying kapulungangang ito kung hindi ko ilalagay ang iaambag, ang butil ng binhing inihahasik natin sa kapakanan ng mga sumusunod pang saling-lahing Pilipino.

Kakambal pa ng pagpasok ni Commodore Dewey sa Look ng Maynila noong 1898 ang pagsibol ng usapan tungkol sa mga base militar ng Amerika sa Pilipinas. Ibigin man natin o hindi, ang Pilipinas, kung baga sa isang dalaga, ay isang tunay na mutya ng kariktan na maraming puso ang nagnanais makasungkit ng matamis na "oo." Nasa sangang-daan tayo ng Karagatan ng Tsina, ng Pasipiko at ng Selebes. Nasa isang pook ang ating bayan na lubhang mahalaga sa larangang panghukbo. Kaya naman, sa mula't mula pa, maraming dayuhan ang nabibihag sa atin.

Mula na nga noong 1898 hanggang sa mga sandaling ito, umaalitubtob na lagi ang usapan tungkol sa mga base militar na ito. At noong 1933, ito ang laman ng Hare-Hawes-Cutting Law na tinutulan ng sambayanang Pilipino dahil sa tuntuning nagbibigay sa Pangulo ng Amerika ng malawak na karapatan na pamalagiin dito ang mga base militar. Pinalitan ito ng Tydings-McDuffie Law na higit na mainam ang tuntuning nakalagay. Anupa't, mula noon, apatnapung ulit nang nagkaroon ng susog at mga pagbabago sa kasunduan ng Pilipinas at Amerika tungkol sa mga baseng ito.

Ang maniningning na kaisipan ng ating mga dakilang ninuno ay iniambag sa pagsusuri, paglilimi at pag-aaral sa kasunduang ito. At hindi naman masasabi ng sino man na ang ating mga ninuno at magulang na ito ay kapos sa pag-ibig sa bayan o napakasangkapan upang ipagkanulo ang bayan. Nag-aalinlangan akong sabihing tayo ang nagpasiya na hindi na kailangan ang mga base militar na ito at paalisin na ang mga Kano sa Pilipinas. Huwag nang isaalang-alang ang 42,265 kataong kababayan nating empleado ng mga baseng ito, bukod pa sa 900 kontratista at 500,000 iba pang nakikinabang sa mga base, ang isipin na lamang natin, lalo na sa panahong itong nakalugso ang kabuhayang bansa, ay ang isang bilyong dolyar na katumbas ng dalawampung bilyong piso na pakinabang ng Pilipinas sa mga baseng ito. 'Pung taon na ang nagdaan mula ng sumulpot ang suliraning ito, maraming utak ng lalong matatalino nating ninuno at magulang ang piniga upang ilagay sa ayos ang suliraning ito. Kung taon ang binilang nila, ano naman at sa isang iglap, tayong aapatnapu't pito na sa loob ng dalawa o sabihin pa nating tatlong linggo, maghihiwa-hiwalay na at magkakanya-kanyang landas, ang makapagwiwikang kayang-kaya nating tapusin at lutasin ito agad. Hindi kaya sa pagmamadali natin maiwan at makaligtaan ang maraming bagay na bukas-makalawa ay magbubunga ng lalo pang suson-susong suliranin at sakit ng ulo ng bayan?

Sabi nga ni Ambassador Pelaez, limang taon ang kailangan upang maging tunay na handa sa pag-uusap ang mga taong may tunay na kakayahan at kaalaman sa suliraning ito. Huwag tayong magmadali sapagkat wika nga ng kasabihang Pilipino, ang "lumakad ng matulin, kung matinik ay malalim."

Kaya mga kasama, buong puso kong itinataguyod ang mungkahi ng kapatid na Komisyonado Francisco "Soc" Rodrigo na ipaubaya sa pamahalaan ang paglikha ng lupong bubuin ng mga sadyang may kasanayan at kakayahanag tauhan ng Ministri ng Tanggulang Bansa, Ministri ng Suliraning Panlabas, Ministri ng Pananalapi at Ministri ng Katarungan upang pag-aralan, matamang limiin, suriin at paraanin sa lalong masinsing bistay at lambat mula ngayon hanggang 1991 at nang maging tunay tayong handa sa pag-uusap at kahit sa pakikipagbunong braso man sa mga Amerikano tungkol sa mga himpilang hukbong ito.

At matapos itong pag-usapan, matapos na magkasundo ang dalawang panig, ang pinakamahalaga sa atin ay ipaubaya sa buong sambayanang Pilipino ang pangwakas na pasiya o pagpapatibay sa kasunduang ito na ang kasamang nakataya ay ang buhay, kapalaran at kinabukasan ng kasalukuyan at mga susunod pang saling-lahing Pilipino.

THE MILITARY BASES ISSUE
By Commissioner Serafin V.C. Guingona

There are those who would wish to dismantle the U.S. military bases in the Philippines upon ratification of the proposed Constitution. Any attempt by the Philippines to unilaterally abrogate the said Agreement would be violative of *pacta sunt servanda,* a fundamental principle of international law which holds that obligations of international agreements should be discharged in good faith. If we abrogate unilaterally, we would project for our country an image of international delinquency. Those favoring immediate dismantling cite the principle of *rebus sic stantibus* which says that a treaty ceases to be binding when an essential change in circumstances in which it was concluded has occurred. But in order that the said principle would be applicable, it would require a substantial change in circumstances as to seriously jeopardize the existence of the State, a requirement which obviously does not exist.

Those who seek the non-renewal of the Military Bases Agreement contend that the Philippines should not renew the treaty because (1) the agreement is violative of our country's sovereignty; (2) the military bases serve as magnets for nuclear attack by Russia; (3) that the terms of the Agreement are unfavorable to us compared to the terms agreed upon by the U.S. with other countries where they also have military bases. Those who say that the existence of the military bases in the Philippines violates our country's sovereignty would conveniently ignore the fact that the Philippines entered into the Agreement in 1947 pursuant to Joint Resolution No. 4 of the Philippine Congress authorizing the President of the Philippines to negotiate with the President of the U.S. regarding the establishment of U.S. bases in the Philippines. It is a valid agreement because (1) the parties had capacity to contract; (2) the agents were duly empowered; (3) there was freedom of consent; and (4) the object was in conformity with international law. The Magsaysay-Nixon statement on July 3, 1956 contained in the first part thereof an assertion that the U.S. had always recognized Philippine sovereignty over the bases. The 1976 re-negotiation was preceded by a U.S. announcement of its "clear recognition of Philippine sovereignty in its use of the Philippine military bases." The 1979 Agreement reiterated the previous Joint Statements that the U.S. military bases in the Philippines were Philippine military bases over which Philippine sovereignty extends. The fact that the U.S. uses and occupies the military bases with our consent does not at all deprive us of sovereignty in much the same way that an owner does not lose ownership over his property notwithstanding the fact that the same is used and occupied by the lessee.

It is contended that the bases serve as magnets for Russian nuclear attack. The fact is that these bases actually serve as deterrents to attack. But granting for the sake of argument that they are magnets, these bases are evidently weak magnets because they have been here for forty years. During all that time there had not been even a hint of a Russian attack. Besides, as former Congressman Marcial Pimentel said, "In the event of a nuclear war, it is not necesssary for a direct hit on a particular country to annihilate all her people. The radioactive fallout will be carried by the winds to all corners of the world under the 'nuclear-winter theory' . . . If the scientists are right, why worry about the bases as targets of nuclear attack? We will die ahead of the Thailanders and Malaysians by just a few weeks. That is not much of an advantage they have over us."

It is to be admitted that some of the terms of the Agreements, as amended, are not favorable to the Philippines if compared with U.S. agreements with other countries like Spain, Great Britain, Italy, Malaysia, Turkey and Greece. But let us not forget that this Agreement was entered into in 1947 shortly after the end of the last World War and before the other agreements concerning bases were concluded. We, in fact, had benefited from the actions of the U.S. about the time the Agreement was entered into – the U.S. liberation of our country from the Japanese as well as the extensive economic aid the U.S. had extended to us for the rehabilitation of our devastated country. It might be noted that this Agreement had undergone several reviews or revisions from 1956 to 1983, which resulted in the institution of about forty amendments to the original provisions. The Philippine flag flies over these military bases under Philippine sovereignty which now have a Philippine base commander. The Philippine laws have been made effective inside the bases – laws affecting taxes, labor, immigration, customs, natural resources and, subject to agreed exceptions, criminal jurisdiction over offenses committed therein. Let us also not ignore the fact that while much of what we are getting from the United States re the military bases are outright grants, a lot of the amounts which Spain and Greece are getting are long-term concessionary loans. Besides, some of the onerous terms are of our own making. For example, Kissinger offered $1 billion for the use of the military bases shortly before the expiration of the term of President Ford after Ford lost in the presidential election. The $1 billion was supposed to be divided on a 50-50 basis, 50% for military assistance and 50% for economic assistance. Marcos accepted the amount but only for military assistance without any economic aid component. Mr. Kissinger refused and the matter was dropped.

Aside from the rentals paid for the use of our military bases, there are other economic benefits that we derive – benefits enjoyed by the many families residing in the areas where the bases are located, benefits from savings that the government would otherwise have to spend without U.S. assistance. In 1985, the R.P. defense budget was $437 million. Only Brunei spent less for defense. Even tiny Singapore spends more than we do. If military assistance were to be cut off, much of our spending would go to the payment of foreign loans and to the budget of the military and little would be left for government services in the areas of education, health and sanitation, housing, public works and many others. There is, of course, one added benefit as to salaries of Filipino workers in the bases amounting to $82,885,042 a year, "the second largest payroll in the Philippines" after the Philippine government. The impact of a sudden withdrawal of American forces from the Philippines, which could be misinterpreted to mean that we are leaning towards the communist countries, could well bring about disastrous results to our country's heroic efforts towards economic recovery. Besides, let us not forget that we have a serious insurgency problem on our hands and we will need all the friendly assistance and support of our allies, including the United States.

RESOLUTION NO. 21

RESOLUTION CONGRATULATING THE HONORABLE JOSE B. LAUREL, JR. ON HIS BEING CONFERRED THE ORDER OF KALANTIAO.

WHEREAS, the Honorable Jose B. Laurel, Jr. was conferred by Her Excellency, President Corazon C. Aquino, the Order of Kalantiao (First Class) on the occasion of his seventy-fourth birth anniversary last August 27, 1986;

WHEREAS, the prestigious award was conferred on the Honorable Laurel, Jr., in recognition of his long years of dedicated service to his country and people; of his high sense of nationalism, patriotism, loyalty and integrity; and of his enviable record as Minority Floor Leader and as Speaker for three times of the House of Representatives of the Congress of the Philippines, as Minority Floor Leader of the Batasang Pambansa, as President of the 1969 Asian Parliamentarians, as Chairman of the Philippine Panel that negotiated the Treaty of Friendship, Commerce and Navigation with Japan, and as representative of the Government to various international conferences, all of which are testimonials to the great and sterling stature and character of the man;

WHEREAS, as a Member of the Constitutional Commission of 1986, Commissioner Laurel, Jr. continues to demonstrate the same qualities of leadership and public service which has endeared him to the Filipino people;

WHEREAS, since the award was conferred on Commissioner Laurel, Jr. at a time when the Constitutional Commission of 1986 is still at work and in the process of formulating a new Philippine Constitution, the giving of the award has brought singular honor to the Commission as well; Now, therefore, be it

Resolved by the Constitutional Commission of 1986 in session assembled, To congratulate the Honorable Jose B. Laurel, Jr. on his being conferred the Order of Kalantiao (First Class) by Her Excellency, President Corazon C. Aquino, on the occasion of his seventy-fourth birth anniversary last August 27, 1986.

Resolved, further, to furnish the Honorable Laurel Jr., a copy of this resolution.

(Sgd.) CECILIA MUÑOZ PALMA
President

This resolution was adopted unanimously by the Constitutional Commission of 1986 on September 3, 1986.

(Sgd.) FLERIDA RUTH P. ROMERO
Secretary-General

THE NEW INFORMATION ORDER AND ITS IMPLICATIONS ON THE PLANNING AND USE OF COMMUNICATION TECHNOLOGY

By Commissioner Florangel Rosario Braid

Communication technology refers to all techniques and means employed in the collection, storage, processing, dissemination and use of information. This is the traditional definition to which I would wish to add the important function of mediating or catalyzing interactive communication between people or groups.

A common belief which I would like to rectify is the tendency to regard the new information order as the new communication technology order which are two different concepts. The present emphasis on pushing the transfer of communication technology in our developing societies such as computerization or countryside dispersal of telephone infrastructure may give the impression that this is what the new information order is all about.

What is the new international information order? Essentially, the order calls for a restructuring of the present flow of information as well as existing policies and practices which have worked primarily for the advantage of the developed countries and the urban centers of developing societies. The important elements are the following: (1) an international exchange of information must support states in developing their cultural system in an autonomous way and with complete sovereign control of resources; (2) individual countries design and implement their national policies on the basis of available resources and to meet the basic socioeconomic needs of the population; (3) public participation and decentralization of communication resources would work towards achievement of goals of endogenous (or local) development; and (4) self-reliance leading to collective self-reliance would strengthen horizontal links and bottom-up communication and would reduce dependency on the urban centers or industrialized countries.

The NIIO or NWICO, like the new economic order, aims to work towards equitable structures such as mechanisms which promote two-way exchange of information between the developed and developing countries and between rural and urban areas of the country. It supports the distribution of information so that local communities, particularly ethnic minorities, have equal access and participation in information as well as other material resources and services. In short, it supports people's right to communication and access to vital information. It further supports the strengthening of mass-based and citizen's groups through community media which can provide these groups leverage in decision making. It recommends upgrading of manpower capability especially in development perspectives particularly in the training of media personnel in order that they become more judicious in selecting strategies that promote cultural values and national goals of authentic development.

The NIIO, while acknowledging the positive contributions of new communication technology, however, provides caution in the indiscriminate transfer of technology especially if they contribute to the erosion of cultural values and in widening disparities between the urban and rural communities. The control of transnational corporations of communication resources and the implication of such in the furtherance of national goals are underscored in the NIIO and the MacBride documents. What is missing in these Reports, however, are specific guidelines for Third World countries in the planning of communication technology. As Nordenstreng, a media critic says, the MacBride Report does not contain a coherent picture of the world – neither of the world of today or of tomorrow. The vision of society is implicit and it is therefore up to us to expand the vision according to our criteria for a preferred future. Schiller criticizes the Report for having failed to confront a powerful transnational business system which is using every means and technique to do what the Report and the NIIO warn against.

I do not wish to belabor the importance of communication as a basic national resource. It is, as many say, as important a resource as energy and materials. It may even be more important than the two for in the final analysis, materials or energy could only be fully utilized if we have an effective communication system. "Information is power" states Deutsch in *Nerves of Government* and his argument is that government is essentially steermanship and steering is decisively a matter of communication. Those who know the power of information and who equate it with power would then tend to hoard information in order to centralize power. On the other hand, we also know that in the long run, nonzero-sum strategies which include redistribution of information or broader participation and sharing are in the end the more viable strategies for everyone than the traditional zero-sum or win-lose strategy which has encouraged information concentration in the hands of a powerful few.

There is likewise concern about the possible consequences of unlimited growth in communication technology. McLuhan sounded a more optimistic note in his concept of the global village where he foresees the movement towards an international community bound by common interests. But unless the planners are aware of both the positive and the negative consequences of the information society, we in the Third World might find our culture a few years from now a homogenized version of a larger world culture, the latter being primarily an import from the western technology producing countries.

ENGLISH TRANSLATION OF SEPTEMBER 1, 1986 DELIBERATIONS

MR. PADILLA. Yes, Madam President, the Castilian or the Spanish language.

I do not believe that during the Spanish regime, Spain did not want to teach the Filipinos the Spanish language. As it is, our national hero, Dr. Jose Rizal, wrote in Spanish not only his two immortal novels, the *Noli Me Tangere* and the *El Filibusterismo,* but also his poems and verses like "My Last Farewell and "My Retirement," which the whole world admits are superior over those written by the Spaniards and Mexicans themselves. And not only Dr. Rizal, all his companions, Marcelo H. del Pilar, Emilio Jacinto and others, in their aim to improve the Philippine situation under the colonization of Spain, studied the Spanish language. After these great men, there are many Filipinos who dominated the Spanish language, like Don Claro M. Recto. We have to realize that Spanish is the second idiom only to English in the world because we have not only Central America but also South America and Latin America, which speak Spanish with the exception of Brazil which speaks Portuguese.

It is not true that the Filipinos could not learn the Spanish language. My parents used to speak Spanish; I spoke Spanish in the family, but unfortunately, due to the American influence and other foreign influences, many of my children no longer speak Spanish. But not to speak Spanish is not a virtue. It seems to me that it is unfortunate for the Philippine nation. And it is for that reason that the late immortal poet and hero, Dr. Jose Rizal, always mentioned in his *El Filibusterismo* that what the Filipino nation needed was more education. Education and idioms, not only Filipino or Tagalog but also Spanish and now English, are very important for the progress of the Philippines. It is unfortunate, I repeat, that the present generation and the future generation cannot speak Spanish. But I believe we have to cultivate this language. Sometimes we talk of foreign language, like German, French or Italian, which has no comparison with the Spanish language.

We have had Spain for more than 300 or 400 years, and it is a disadvantage for not having the desire or the interest to conserve this idiom of our Mother Spain. How can we feel the sentiments of our national hero, especially in his poems, if we have to go into translation instead of reading the original? My father always requested me to memorize the poems of Dr. Jose Rizal, and many times he imposed upon me to recite these very beautiful verses, better than the ones written by the Spaniards and the Mexicans, before him.

Thank you very much.

MR. GUINGONA. Madam President.

MR. VILLACORTA. Madam President, the Commissioner has to read the books of historians and also the chapter in the *El Filibusterismo,* entitled : "The Difficulties of a Teacher" to understand the truism that the Spaniards really did not want to teach us the Spanish language.

I would like to ask Commissioner Padilla. How many of us here understood the Gentleman when he was speaking in Spanish?

MR. PADILLA. As I said, it is unfortunate for this generation that they cannot, at least, understand the Spanish language. I admit that Spain did not want to educate the Filipino people because the theory was that it was easier to colonize and continue the Spanish government if the Filipino masses are not well-educated. I concur that they did not want to elevate the intellectual educational sphere of the Filipino people, but not necessarily not to teach the Filipinos the Spanish language. There is a great difference. I concur that they did not want to educate the Filipinos because it was easier to dominate a nation that is ignorant than educated. But that does not mean that we should not try to conserve and, much less, not learn the Spanish language.

MR. GUINGONA. Madam President, may I ask a question of the honorable Commissioner Padilla?

MR. PADILLA. With pleasure, Madam President.

MR. GUINGONA. I just want to know the desire of the Commissioner. Is it the Commissioner's desire that we should include in our Constitution the provision that this Constitution should be promulgated in Spanish, or will the Commissioner be satisfied if we could simply say that our Constitution should be translated into our dialects and also into Spanish?

MR. PADILLA. No, I concur with the recommendation of Commissioner Tingson that our Constitution be also translated into Spanish.

MR. GUINGONA. Thank you.

PROPOSED RESOLUTION NO. 539

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION THE PROVISIONS ON THE COMMISSION ON HUMAN RIGHTS.

Be it resolved as it is hereby resolved, by the Constitutional Commission in session assembled to incorporate in the new Constitution, the following provisions:

ARTICLE ___

THE CONSTITUTIONAL COMMISSIONS

E. The Commission on Human Rights

SEC. 1. There shall be an independent Commission on Human Rights composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines, at least thirty-five years of age and members of the Bar for at least ten years.

The Chairman and the Commissioners shall be appointed by the President for a term of seven years without reappointment. Of the Commissioners first appointed, one shall hold office for seven years, another for five years, and the third for three years. Appointment to any vacancy shall only be for the unexpired portion of the term of the predecessor.

SEC. 2. The Commission on Human Rights shall have the following powers and functions:

(1) Investigate all forms of human rights violations committed by public officers, civilian and military authorities, or by private parties;

(2) Issue subpoena and subpoena *duces tecum* to compel the attendance of any party to its proceedings or the production of materials and documents, with the power to cite for contempt for violations thereof in accordance with the Rules of Court promulgated by the Supreme Court of the Philippines;

(3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, including provisions for legal aid services for indigent persons whose human rights have been violated or need protection; and

(4) Establish a continuing program of education and information to propagate the primacy of human rights.

(5) Perform such other duties and functions as may be fixed by law.

MALACAÑANG LIBRARY

COMMUNICATION OF COMMISSIONER SERAFIN V.C. GUINGONA

Hon. Cecilia Muñoz Palma
President
1986 Constitutional Commission

Dear Madam President:

This is to confirm the information I brought to Your Honor's attention that in our publication – Journal of the Constitutional Commission – my name appears with the indication that I was absent from August 6–9 without the additional remark that I was sick, which remark appears in the subsequent sessions from August 11–16. In our other publication – Record of the Constitutional Commission – I am reported as absent from August 6–16 without any indication that I was sick.

The fact is I had been confined at the Makati Medical Center where I was rushed due to acute abdominal pains while attending the Commission's session on August 5 and I remained in the said hospital until noon of August 18.

May I request that this manifestation be included as an Appendix in the still unprinted/unpublished volume of our Journal (Volume Three) and of our Record (Volume Four) to avoid any wrong speculation that I had absented myself from the Commission's sessions without good reason.

C-313

Very respectfully yours,

(Sgd.) Serafin V.C. Guingona

Approved:

(Sgd.) Cecilia Muñoz Palma